INSTITUTES

OF

MORAL PHILOSOPHY.

For the use of Students in the College of EDINBURGH.

By ADAM FERGUSON, LL.D.

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INSTI-

INSTITUTES OF MORAL PHILOSOPHY.

INTRODUCTION.

SECTION I.

Of Knowledge in general *.

ALL knowledge is either that of particular facts, or that of general rules.

The knowledge of facts is prior to that of rules; and is the first requisite in the practice of arts, and in the conduct of affairs.

* Bacon's Novum organum.

A general rule is the expreſſion of what is common, or is required to be common, in a number of particular caſes.

General rules are the reſult of obſervation, or will; and conſequently are derived from mind.

Practice, or conduct of any ſort, though regulated by general rules, has a continual reference to particulars.

In ſpeculation, we endeavour to eſtabliſh general rules.

In practice, we ſtudy particular caſes, or apply general rules to regulate our conduct.

SECT. II.

Of Science.

A Collection of facts, in deſcription or narration, conſtitutes hiſtory.

General

General rules, and their applications, to regulate or to explain particulars, conſtitute ſcience.

Any general rule, expreſſing what is fact, or what is right, is termed *a law of nature.*

A general rule, when applied to explain or regulate particulars, is termed *a principle*; and explanations or injunctions from principle, are termed *theory*, or *ſyſtem.* The particulars to be explained are termed *phenomena.*

Method in ſcience is of two kinds; analytic, and ſynthetic.

Analytic method, is that by which we proceed from obſervation of fact, or right, in particular caſes, to eſtabliſh general rules.

Synthetic method, is that by which we proceed from general rules to their particular applications.

The firſt is the method of inveſtigation.

The ſecond of communication, or of the enlargement of ſcience.

Argument is of two kinds:

A priore, and *a poſteriore*.

By an argument *a priore*, the fact is proved from the law.

By an argument *a poſteriore*, the law is proved from the fact.

SECT. III.

Of the laws of Nature.

THE laws of nature are either phyſical, or moral.

A phyſical law is any general expreſſion of a natural operation, as exemplified in a number of particular caſes.

In every operation, men are by nature diſpoſed to apprehend an operating power or cauſe.

Cauſes are of two kinds:

Efficient, and final.

The

The efficient cauſe, is the energy or power producing an effect.

The final cauſe, is the end or purpoſe for which an effect is produced.

In ſuppoſing final cauſes, we ſuppoſe the exiſtence of mind.

Phyſical ſcience, is the knowledge and application of phyſical laws, or of efficient cauſes, to explain and account for appearances.

A moral law, is any general expreſſion of what is good; and therefore fit to determine the choice of intelligent beings.

A phyſical law exiſts ſo far only as it is the fact.

A moral law exiſts in being obligatory.

The ſubject from which phyſical laws are collected, may be claſſed under four principal heads:

Mechaniſm, vegetation, animal life, and intelligence.

It has not hitherto been made appear, although ſometimes attempted, that theſe operations can be comprehended under the ſame phyſical laws.

The phenomena of vegetation are not comprehended under any known law of mechaniſm, much leſs thoſe of animal life or intelligence.

The ſubjects of moral ſcience are, any matters of choice, together with the nature and actions of free and voluntary agents.

The immediate uſe of phyſical laws, is theory.

The immediate uſes of moral law, are choice, practice, and conduct.

SECT.

SECT. IV.

Of Theory.

THeory conſiſts in referring particular operations to the principles, or general laws, under which they are comprehended; or in referring particular effects to the cauſes from which they proceed.

To inveſtigate or to point out any general rule or law of nature, in which any particular fact is comprehended, is to account for that fact.

Thus Sir Iſaac Newton accounted for the planetary revolutions, by ſhowing that they were comprehended in the laws of motion and gravitation.

To pretend to explain phenomena, by ſhowing that they may be comprehended in a ſuppoſition or hypotheſis,

hypotheſis, or by applying to them, metaphorically, the language proper to any other ſubject, is illuſory in ſcience.

Thus the vortex of Deſcartes, being a mere ſuppoſition, could not explain the planetary motions: and the terms, *idea*, *image*, or *picture*, of things, being terms merely metaphorical, cannot explain human knowledge or thought.

All phenomena, though not comprehended under any known law, are proper materials of natural hiſtory.

All facts that cannot be explained by any rule previouſly known, or better known than the facts themſelves, may be termed *ultimate facts*.

It is evident, that all theory muſt reſt on ultimate facts.

To require proof *a priore* for every fact, were to ſuppoſe, that human knowledge requires an infinite

ſeries

ſeries of facts and explanations; which is impoſſible.

SECT. V.

Cauſes that have retarded the progreſs of Science.

THE neceſſary avocations of human life.

The love of ſyſtem, and impatience of delay, in the ſtudy of particulars.

Emulation of ſpeculative men, and deſire to ſupplant each other as founders of ſects.

Prejudice, national or perſonal.

The difficulty of penetrating appearances, to diſcover what operations are like, what different.

Affectation of acuteneſs or novelty in conteſting the evidence of ultimate facts.

Vain deſire of accounting for ultimate facts.

SECT.

SECT. VI.

Maxims of Reaſon, to be followed in ſpeculation, as well as in common life.

THat nothing be aſſigned as a law of nature, until it be known as a fact in nature.

That facts uniform as far as our knowledge of the ſubject extends, be deemed univerſal laws of nature reſpecting ſuch ſubject.

That partial laws be not extended beyond the conditions and limitations under which they are known to take place.

That like phenomena be referred to the ſame laws.

That no proof or explanation be required of ultimate facts.

SECT.

SECT. VII.

Of Moral Philoſophy.

MOral philoſophy is the knowledge of what ought to be, or the application of rules that ought to determine the choice of voluntary agents.

Before we can aſcertain rules of morality fitted to any particular nature, the fact relating to that nature ſhould be known.

Before we can aſcertain rules of morality for mankind, the hiſtory of man's nature, his diſpoſitions, his ſpecific enjoyments and ſufferings, his condition and future proſpects, ſhould be known.

Pneumatics, or the phyſical hiſtory of mind, is the foundation of moral philoſophy.

SECT.

SECT. VIII.

Of Pneumatics.

PNeumatics treat phyſically of mind or ſpirit.

This ſcience conſiſts of two parts.

The firſt treats of man; the ſecond, of God.

That part which treats of man, may contain the hiſtory of man's nature, and an explanation or theory of the principal phenomena of human life.

That which treats of God, contains the proofs of his exiſtence, attributes, and government.

The hiſtory of man contains either ſuch facts as occur on a general view of the ſpecies, or ſuch as occur to the individual, in recollecting what paſſes in his own mind.

The

The firſt may be termed, *the hiſtory of the ſpecies*; the ſecond, that *of the individual.*

In the theory of human nature are ſolved queſtions relating to the characters of men, to the nature and future proſpects of the human ſoul.

INSTITUTES

OF

MORAL PHILOSOPHY.

PART I.

The natural hiſtory of Man *.

CHAP. I.

Hiſtory of the Species.

SECT. I.

General arrangement.

THE hiſtory of the human ſpecies contains the following articles.

1. The form and aſpect of man.

* See Buffon's Natural Hiſtory.

2. His reſidence, and manner of ſubſiſtence.

3. The varieties of his race.

4. The period of his life.

5. His diſpoſition to ſociety.

6. Population, or the generations and numbers of mankind.

7. Varieties of choice and purſuit.

8. Arts and commerce.

9. Diſparities of rank and eſtimation.

10. Political eſtabliſhments.

11. Language and literature.

SECT. II.

Of the form and aſpect of Man.

THE human form is erect, furniſhed with articulations and muſcles, fitted to retain this poſture, and to move in it with eaſe and ſafety.

The hand and the arm of man, is

is an inſtrument and a weapon, not a prop or ſupport to his body.

His form and poſture are well fitted to obſervation, to the uſe of reaſon, and to the practice of arts.

His aſpect is expreſſive of his thoughts, ſentiments, and intentions. It is calm or agitated; mild or fierce; languid or ardent; doubtful or decided; timid or intrepid.

His natural expreſſions conſiſt of actions, geſtures, ſmiles, frowns, tears, looks, together with changes of colour; and exhibit, on the whole, a variety, and a grace, which either do not take place, or are not obſerved, in other animals.

He is naked and unarmed; but by his invention qualified to ſupply theſe defects.

The final cauſe appears to be, that his talent for invention ſhould be employed.

SECT. III.

Man's reſidence, and manner of ſubſiſtence.

OTher animals have their ranges on the earth, beyond which they do not willingly ſtray, or beyond which they are not qualified to ſubſiſt.

Some ſubſiſt only in the hot climates, others in the cold or the temperate; but man reſides equally in every climate, and can ſubſiſt on great varieties of food, both animal and vegetable.

He either accommodates himſelf to the inconveniencies of his ſituation, or learns to ſurmount them.

SECT.

SECT. IV.

Varieties of the human race.

UNder the general form and aſpect of mankind, there are conſiderable varieties of the race.

Men being diſperſed over the face of the earth, receive the influences of climate, ſituation, and ſoil.

The animal and rational temperament, is comparatively phlegmatic and dull in cold climates; is more ardent and quick in warm climates; but has always poſſeſſed a diſtinguiſhed ſuperiority in the temperate.

Apart from theſe diſtinctions, the diverſities of race are marked by a difference of ſtature, features, and complexion.

Mankind may be referred to ſix different races.

The

The European, the Samoeide, the Tartar, the Hindoo, the Negro, and the American *.

SECT. V.

Period of human life.

EVery ſpecies of animal is preſerved by ſucceſſion.

The death of one generation is as much a part in the order of nature, as the birth and ſucceſſion of another.

In the human ſpecies, according to ſome obſervations, half the numbers that are born die before the ſeventeenth, the ſeventh, or even the third year of their age is expired.

Long life †, in all climates, con-

* Buffon of the varieties of the human race.

† Buffon's Natural hiſtory. Halley's Tables. Lowthorp's Abridgement of the Philoſophical Tranſactions, vol. 3. p. 669.

ſiſts

ſiſts of between ſeventy and a hundred years.

It appears from the annual regiſter of deaths where the numbers of people are known, That about one in thirty dies each year:

That of twenty-ſeven or twenty-eight, one is born:

That about a fourth of the whole number are males between eighteen and fifty-ſix, able to carry arms.

SECT. VI.

Diſpoſition of man to ſociety *.

ANimals have been diſtinguiſhed into two claſſes; the ſolitary, and the ſocial.

Animals of prey, for the moſt part, are ſolitary.

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 3.

Other

Other animals are, for the moſt part, aſſociating.

The aſſociating may be farther ſubdivided into two kinds:

1. Thoſe which aſſemble in flocks or herds, merely for company or ſafety:

2. Thoſe who unite their labours for ſome common purpoſe, and diſtribute the burdens of the community according to ſome rule of inſtinct or of reaſon.

The latter are aſſociating and political. Man, though an animal of prey, and from neceſſity or ſport addicted to hunting or war, is nevertheleſs, in the higheſt degree, aſſociating and political.

Societies may be referred to four general claſſes: families, companies, nations, and empires.

Families are united by affection; companies by the deſire of ſociety; nations by the deſire of ſecurity; and empires by force.

Men,

Men, by their confederacy, as well as by their artifice, are enabled to ſubdue every other ſpecies of animal, to ſubſiſt by their ſpoil, and to employ the ſtrength of other animals, though ſuperior to their own.

Separate ſocieties are, for the moſt part, rivals or enemies *.

SECT. VII.

Of Population †.

MEN exiſt in greater numbers than any other ſpecies of the larger animals.

In ſome caſes they are found to

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 4.

† Eſſay on the Hiſtory of Civil Society, part 3. ſect. 4. Wallace's Numbers of mankind. Hume's Populouſneſs of ancient nations.

increaſe,

increaſe, in others to decreaſe, in their numbers.

The quick or ſlow increaſe of animals in general, depend on the laws of propagation, on the ſecurity, and the means of ſubſiſtence they enjoy.

The firſt relate to the age at which the parent becomes prolific; to the time that elapſes in pregnancy; to the frequency of breeding; to the numbers of each brood; and to the period during which the parent continues prolific.

The laws of propagation determine the numbers that may ſpring from any ſingle pair, and the numbers of generations that may ſubſiſt together.

Theſe laws, in every ſpecies of animals, are, in favourable circumſtances, ſufficient to its increaſe.

Men, in every ſecure ſituation, people up to their reſources; and the aid of government is required, not

not to improve on the laws of propagation, but to beſtow ſecurity and plenty.

Animals of prey have moſt difficulty in procuring their food.

Animals which are made a prey are leaſt ſecure.

The ſecurity and ſubſiſtence of men, are moſt impaired by their own mutual hoſtilities and oppreſſions.

The laws of propagation, as well as the means of ſubſiſtence, are ſuppoſed moſt favourable to population in the warmer climates. To this it is imputed that nations in thoſe climates are populous, even under great defects of government.

SECT. VIII.

Varieties of choice and purſuit.

MEN have not, like the other animals, a fixed and determinate choice of external objects and purſuits.

Nations are frequently, by the difference of their manners and cuſtoms, mutual objects of wonder and cenſure, of contempt and averſion.

Even of two men placed in the ſame or like circumſtances, one acquieſces, or is pleaſed; the other complains.

They differ in reſpect to the means which they employ for the attainment of the ſame, or of ſimilar ends.

SECT.

SECT. IX.

Arts and Commerce *.

MEN are employed chiefly in procuring the means of ſafety, ſubſiſtence, accommodation, and ornament.

They practiſe a variety of arts, or inventions, for theſe purpoſes; and are more or leſs ſucceſsful in proportion as they have multiplied, divided, and completed their arts.

They appropriate the fruits of their ſkill and induſtry, and endeavour to accumulate wealth.

The arts which they practiſe for ſafety, are, the inventions of arms, places of retreat, and defence.

The earlieſt weapons appear to have been, the club, the ſling, and

* Harris on Coins.

the bow: to theſe ſucceeded, in proceſs of time, the ſpear and the ſword, joined to the buckler or ſhield;

Fire-arms, cannon, and then muſketry.

The deſire of retreats has given riſe to the art of fortification.

The art of war, in every age, muſt be accommodated to the ſpecies of arms, engines, and methods of fortification, in uſe.

The arts which men practiſe for ſubſiſtence, are, fiſhing, hunting, paſturage, and agriculture.

Nations that know leaſt of the means of ſubſiſtence, have recourſe to hunting and fiſhing; or rely on the ſpontaneous growth of the field in herbs or fruit.

In the reſult of theſe arts, the hunting-ground, the lake, the river, or the bay, may be appropriated to the ſociety; but the game is ſeldom

ſeldom appropriated to the individual.

Nations that have obſerved the method, and the advantage, of breeding herds, betake themſelves to paſturage.

They at firſt, generally, migrate, or wander, with their herds.

The individual acquires an immediate property in cattle, but not in land.

Nations that are acquainted with the uſe of herbs, fruits, and grain, which do not grow ſpontaneouſly, or do not grow in ſufficient quantities, betake themſelves to agriculture.

The culture of land, to a certain degree, may precede property, as it did among the ancient Germans *, and among the nations of North America.

* Vide Cæſar, lib. 4. cap. 1.; and lib. 6. cap. 22. Charlevoix's Hiſtory of Canada.

Agriculture, where the object is the temporary produce of land, is compatible with migration: where the object is the improvement of ſoil, and perpetual fertility, agriculture requires ſettlement, and the property of land.

As the property of land excites to invention in agriculture, it likewiſe excites to invention in other arts.

They who have no land, betake themſelves to manufacture, that they may have wherewith to buy the produce of land.

By manufacture, men are furniſhed with the means of accommodation and ornament.

The means of accommodation are, cloaths, houſes, furniture, utenſils, equipage.

Men, in different ages, are unequally furniſhed with theſe articles; they even ſubſiſt without them; but, in the ruder climates, under

under ſuch inconveniencies, as diminiſh the numbers of the ſpecies, or prevent their increaſe.

The means of decoration are ſuch things as pleaſe the fancy, without being neceſſary or uſeful.

Men, in all ages, are fond of decoration; they combine ornament with the means of ſubſiſtence and accommodation: but they may ſubſiſt, and enjoy every conveniency, without regard to ornament.

Ornaments are principally made of rare materials; as gems, precious metals, &c.

Riches conſiſt in the abundance of things that conduce to ſafety, ſubſiſtence, accommodation, and ornament.

Riches are the reſult of arts and induſtry.

Whatever ingenuity men exert in the practice of arts, their ſucceſs will depend on a proper diſtribution of their employments, and on their

their making a ſeparate buſineſs of each.

In making this diſtribution, the parties truſt, that they may be able to exchange what they have to ſpare for what they want.

The progreſs of arts, as well as the caſual diſtribution of commodities, depending on ſituation, climate, and ſoil, render commerce expedient, or even neceſſary.

Commerce, in the ſimpleſt form, conſiſts of barter, without any ſtandard of valuation, or medium of exchange: each party gives what he has to ſpare of one kind, for what he wants of another.

To extend trade, money, communication, and the interpoſition of merchants, are required.

The firſt money, or medium of exchange, was generally ſome ſtaple commodity, as corn, cattle, &c.

Theſe were things of uncertain value,

value, of inconvenient bulk, periſhing or expenſive in the keeping, and not eaſily divided, without making a change of value.

To avoid theſe ſeveral inconveniencies, the precious metals have been admitted in every trading nation as the medium of exchange.

They are, for the greater conveniency, employed in the form of coin.

The pound, or other aſcertained weight or quantity of the precious metals, was employed as the ſtandard of valuation.

The coin of all nations has undergone conſiderable changes, both in reſpect to fineneſs and weight.

The preſent ſtandard for ſilver in England, is 11 oz. 2 dw. fine, to 18 dw. allay.

For gold, 22 carats fine, to 2 carats allay.

The pound of ſtandard ſilver is cut into 62 ſhillings.

That

That of gold, into 42½ guineas.

The pound of ſilver was originally cut into 20 ſhillings: hence 20 ſhillings are ſtill the nominal pound in money.

In the reign of Edward VI. the ſtandard of ſilver was greatly debaſed, and the coin greatly diminiſhed: The ſtandard conſiſted of three parts of fine to nine of allay; and the pound of this debaſed metal was cut into 72 ſhillings.

The ſtandard and weight of the coin have, ſince the reign of Eliſabeth, remained the ſame.

Operations on the coin embarraſs trade, by perplexing tranſactions, and by alarming the intereſt of debtors and creditors.

If, in debaſing coin, the intereſt of the creditor is not guarded, he muſt be defrauded.

In raiſing the value of the coin, the debtor would be defrauded.

Moſt

Moſt operations on coin have been of the former kind.

The uſe of coin, and actual payments in money, are not neceſſary in every commercial tranſaction.

In the transfer of great ſums, even the precious metals would be cumberſome and inconvenient.

To avoid this inconvenience, the practice of circulating bills has been adopted.

This practice is founded in credit, and tends to extend it.

Commerce employs a number of ſeparate profeſſions; the manufacturer, the factor, the carrier, the merchant, the retailer.

The price of commodities in trade is as their ſcarcity combined with their demand.

Articles, in the production of which, labour, time, and ſkill, are required, continue to multiply, while the price is ſufficient to maintain the labourer during the time he

he is employed, to reimburſe his apprenticeſhip, and other expences, and to furniſh an adequate reward.

When the price falls below this meaſure, the manufacture is diſcontinued, until the ſcarcity brings up the price.

SECT. X.

Diſparity and Rank.

MEN are diverſified, in reſpect to their perſonal qualities and conditions.

The diſtinction of perſonal qualities ariſe from unequal ſtrength and capacity, unequal knowledge, reſolution, and courage, unlike diſpoſitions of benevolence or malice.

Theſe differences conſtitute either relations of dependence and power, or comparative degrees of eſtimation.

The

The ſtrong, the knowing, the brave, are powerful; the weak, the ignorant, the fearful, are dependent.

The benevolent are engaging; the malicious offenſive.

The knowing, the generous, and the brave, are eſteemed; the ignorant, the ungenerous, and the cowardly, are contemned: and all the qualities of human nature being referred to the predicaments of excellence and defect, one man is held to be more, another leſs worthy.

Men differ in their predilection of qualities conſidered as the conſtituents of excellence.

They prefer qualities the moſt neceſſary in their own ſituations, and the moſt eminent in their own way.

In dangerous ſituations, and in warlike ages, they chiefly admire valour.

In learned ſocieties, they admire knowledge and ingenuity.

In trading nations, they admire induſtry, punctuality, and fair dealing.

But there being ſome circumſtances common in the ſituation and diſpoſition of all mankind; ſuch as, their being united in ſociety, and concerned in what relates to their fellow-creatures; men univerſally admire qualities which conſtitute or procure the good of mankind; as, wiſdom, juſtice, courage, and temperance.

Such qualities are generally comprehended under the title of *Virtue*.

Oppoſite qualities, under the title of *Vice*.

The external conditions of men are ſometimes confounded with perſonal qualities, and appear to have the ſame effects.

The rich are powerful, the poor are dependent.

Riches, birth, equipage, and finery, are eſteemed: Poverty, obſcurity,

rity, and plainneſs, are contemned.

Diſparities are found in every ſtate of ſociety; they are greateſt where riches, power, and education, are moſt unequally diſtributed.

SECT. XI.

Of Political Eſtabliſhments *.

WHere men aſſociate from affection and choice, and with little ſenſe of private or of ſeparate intereſt, they have been known to ſubſiſt without rule or political eſtabliſhment.

Even where they aſſociate from a ſenſe of expediency or neceſſity, they follow, without rule, the ſuggeſtion of every particular occaſion.

* L'Eſprit de Loix, liv. 2. Eſſay on the Hiſtory of Civil Society, part 1. ſect. 10. Ibid. part 3. ſect. 2.

But in maintaining an union which has ariſen from caſual coalitions, or force, ſocieties have been obliged to adopt, and to ſubmit to, government.

Where the coalition was caſual, or forced, individuals felt ſeparate intereſts, and wiſhed for rules to adjuſt their diſputes.

Some ſuffered themſelves to be governed, and others pretended to government, on the footing of caſual dependency and ſuperiority.

The abuſes of caſual ſubordination have led men to think of poſitive inſtitutions.

Poſitive inſtitutions have confirmed, altered, or reſtrained, the powers which ariſe from caſual ſubordination.

All the political inſtitutions of men may be reduced to two general claſſes:

The ſimple, and the mixed.

Under the ſimple inſtitutions, the ſupreme

ſupreme power is committed to a ſingle perſon, or to a ſingle aſſembly or body of men.

In mixed inſtitutions, the ſupreme authority is exerciſed by a plurality of collateral powers.

Simple inſtitutions are, democracy, ariſtocracy, monarchy, and deſpotiſm.

Democracy is the ſupreme power of the collective body.

This inſtitution is calculated to correct, or to remove, the effects of adventitious dependency and ſubordination, and to reconcile equality with order.

Ariſtocracy is the ſupreme power of a particular rank or claſs of men.

This claſs of men has, in ſome caſes, been elective; in others, hereditary.

The inſtitution itſelf, though calculated to confirm the ſuperiority of one rank, and the dependence of the other, may, notwithſtanding,

preſerve equality among the members of each claſs.

Monarchy is the ſupreme power of a ſingle perſon, who, placed at the head of many ſubordinate dignities, has an authority defined by laws.

This inſtitution is calculated to confirm adventitious dependency and ſubordination.

Extenſive and perpetual military arrangements have led to monarchical ſubordination.

Deſpotiſm is the ſupreme power of a ſingle perſon, aſſumed and maintained by force, on the ruin of every other pretenſion to rank.

Deſpotiſm has ariſen from conqueſt, or military uſurpation.

Mixed inſtitutions are, either mixed republics, or mixed monarchies.

In mixed republics, the ſupreme power has been ſhared betwixt the collective

collective body, and a ſenate or convention of nobles.

In mixed monarchies, the ſupreme power has been ſhared betwixt a king and nobles, or betwixt a king, nobles, and people.

SECT. XII.

Language and Literature.

LAnguage, in the moſt general ſenſe, comprehends all the external ſigns of thought, ſentiment, or will.

Signs are, either original, or conventional *.

Original ſigns are ſuch as men are led by inſtinct to employ, and to interpret.

Such are, tones of the voice, change of features, and geſtures.

* See Reid's Inquiry into the human mind.

Conventional

Conventional ſigns are ſuch as men have agreed upon, or rendered cuſtomary.

Conventional ſigns may be ranged under the three following heads.

1. Mute ſigns.
2. Speech.
3. Written characters.

Where men are forbid the uſe of ſpeech, or are defective in the organs of hearing, or of pronunciation, they have recourſe to mute ſigns; and attain, in a conſiderable degree, the purpoſes of language.

Nations employ unequal meaſures of action, and of mute ſigns, together with ſpeech.

Speech is univerſal to mankind, and peculiar to the human ſpecies.

Every ſeparate nation, or tribe, for the moſt part, has had a ſeparate language, or different dialect.

The theory of ſpeech, whether univerſal

univerſal or particular, is the ſcience of grammar *.

Written characters are the ſigns of words, or of articulate ſounds.

They are either verbal, or alphabetical.

Verbal characters are the ſigns of entire words.

Alphabetical characters the ſigns of elementary ſounds, or modulations; which being combined, conſtitute words.

Writing preſerves the memory of paſt tranſactions, of obſervation, and experience. It preſerves literary productions, and tends to improve and to extend the uſe of ſpeech.

* See Harris's Hermes.

CHAP.

CHAP. II.

History of the Individual.

SECT. I.

General Arrangement.

THE history of the individual contains the following articles.

1. Conſciouſneſs.
2. Animal ſenſe and perception.
3. Obſervation.
4. Memory.
5. Imagination.
6. Abſtraction.
7. Reaſoning.
8. Foreſight.
9. Propenſity.
10. Sentiment.
11. Deſire.
12. Volition.

The

The firſt eight articles are commonly referred to the underſtanding; the remainder to the will.

SECT. II.

Of Conſciouſneſs.

THE mind is conſcious of itſelf, as acting or ſuffering, in all its operations and feelings.

It is conſcious of the laws of thought or reaſon, which are termed the *metaphyſical* or *geometrical axioms*.

Theſe axioms are the conditions on which all thought proceeds, and which need not be expreſſed, but for the ſake of order or method.

SECT.

SECT. III.

Animal Senſe and Perception *.

SEnſation is obtained by means of corporeal organs; and is, for the moſt part, attended by an original or acquired perception of ſome external cauſe of the ſenſation, or object of the perception.

The organs of ſenſe are commonly reduced to five heads:

Touch, Taſte, Smell, Hearing, and Seeing.

TOUCH.

The whole animal frame is in ſome degree an organ of touch.

The ſenſations of touch, or feel-

* See Reid's Inquiry into the human mind.

ing,

ing, are either pleaſant, painful, or indifferent.

The interior or ſubcutaneous parts, are ſenſible only to the pains which ariſe from hurts or diſorders.

The final cauſe appears to be, that in their ordinary and ſound ſtate, they ſhould require no attention; but in caſe of diſorders, that they ſhould give the alarm.

On the exterior ſurface of the body, harmleſs ſenſations are indifferent, but whatever hurts is painful.

Indifferent ſenſations are the indications of the mere contact of innocent bodies.

Painful ſenſations are indications of hurts or wounds.

Pleaſant ſenſations are the ſign of relief from what hurts or wounds; as of moderate warmth ſucceeding to great cold, or the converſe.

Many indifferent ſenſations, in particular parts of the body, as in

the hands, the tongue, &c. are indications of the intimate properties, and nice diſtinctions, of bodies; as of their figure, poliſh, hardneſs, ſoftneſs, as well as comparative heat or cold.

The perceptions of this ſenſe are, in ſome inſtances, original; in others, acquired.

The figure, hardneſs, ſoftneſs, heat, and cold, of bodies, are matter of original perception.

Many of their ſalutary or pernicious qualities are learned by experience, and are matter of acquired perception.

In ſome caſes we perceive the nature, as well as the exiſtence, of qualities; as of figure, hardneſs, ſoftneſs.

In others, we perceive the exiſtence of the quality, but not its nature; as of heat and cold.

The firſt have been termed *primary*,

mary, the other, *ſecondary*, *qualities of bodies*.

The ſenſations by means of which we perceive primary qualities, are, for the moſt part, indifferent, and have no name.

The ſenſations by which we perceive ſecondary qualities, are, for the moſt part, either pleaſant or painful; are conſidered apart from the perception they bring; and frequently uſurp the name of the quality perceived, ſo as to occaſion a conſiderable ambiguity in language. Thus heat or cold, which are the names of certain unknown properties in bodies, are ſometimes underſtood of animal ſenſation or feeling.

The animal ſenſation can, in no caſe, have any reſemblance to the ſubject or quality perceived.

Its informations, therefore, are not like that we receive from the inſpection of a picture or image;

but like that we receive by means of language, or other arbitrary ſigns.

In original perception, the ſign is affixed by nature, and the interpretation inſtinctive.

Our ſenſations are not fitted to furniſh us with the means of inveſtigation, and of proof, but with perceptions which precede all inveſtigation or proof.

The ſceptic, who affects to diſbelieve the informations of ſenſe, has the ſame perception with the dogmatiſt, who profeſſes to believe.

TASTE.

The organ of taſte is placed in the tongue and palate.

Its ſenſations are, for the moſt part, either pleaſant or painful.

The qualities of bodies perceived by

by it are ſecondary, as already explained *.

The ſenſations of taſte become, after ſome experience, the indications, or ſigns, of what is pernicious or ſalutary in food, &c.

But the ſame ſubject is frequently known by ſenſations which differ greatly in reſpect to pleaſure or pain.

The ſenſation is ſometimes pleaſant, at other times painful, or indifferent, while the ſame object is ſtill perceived.

Thus under the influence of appetite, the taſte of food is pleaſant; when the appetite is cloyed, the taſte is diſguſting or painful.

It is likewiſe oft-times not in any conſiderable degree either pleaſant or painful, or it is indifferent; yet in all thoſe caſes the object is ſtill

* See p. 50. & 51.

perceived, and its qualities nicely diſtinguiſhed.

SMELL.

The organ of ſmell is placed within the noſtrils, near to the paſſage of the air in reſpiration.

There is a greater analogy between the ſenſations of ſmell and taſte, than between thoſe of any other two of our ſenſes.

They agree in giving a perception of ſecondary qualities; in enabling us, by the help of experience, to diſtinguiſh external ſubjects, and to recogniſe the ſame ſubject by the *media* of ſenſations that vary from pleaſant to painful or indifferent.

HEAR-

HEARING.

The organ of hearing is placed in the interior part of the ear.

The ſenſations of ſound, whether ſingle, or multiplied, and variouſly combined, are either pleaſant, painful, or indifferent.

The quality perceived is ſecondary, found, by inveſtigation, to be pulſes of the air, occaſioned by exploſions, or by the tremors of tenſe and elaſtic matter of any ſort.

Sounds are diverſified by their intenſity and muſical tone.

Tones being a natural language of ſentiment, are, by certain combinations, eaſily rendered pathetic.

Different ſounds are, by experience, learned to be the ſigns or indications of different ſubjects, and of different movements.

SIGHT.

SIGHT.

The organ of ſight is placed in the eye.

Its ſenſations are ſometimes pleaſant or painful, but for the moſt part indifferent.

Of the qualities perceived by means of theſe ſenſations, ſome are primary, others ſecondary.

The original perception obtained by ſight, is that of the viſible appearance of things external. This appearance includes ſuperficial extenſion and figure, apparent magnitude, illumination, ſhade, and colour.

The acquired perception is that of the real dimenſions, figures, and diſtances of bodies.

In the uſe of this organ, there is a ſeries of ſigns and interpretations.

1. The

1. The viſible appearance is perceived by means of light.

2. Objects are perceived by the intervention of this appearance.

The ſame object is perceived under great varieties in the viſible appearance.

The ſolid dimenſions of bodies are underſtood from the diſpoſition of light and ſhade on the viſible ſurface.

The diſtances of known bodies are inferred from their apparent magnitude and diſtinctneſs.

The real magnitudes of bodies at a known diſtance, are inferred from their apparent magnitudes.

This diſcernment of objects from their viſible appearance, is the reſult of obſervation. Where we have no meaſure of the diſtance of bodies, we cannot from their apparent magnitude aſcertain their real magnitude: or where we have no meaſure of the real magnitudes of bodies, we cannot

cannot from their apparent magnitudes aſcertain their diſtance.

The perceptions of ſenſe are communicated to others by information or teſtimony.

SECT. IV.

Obſervation.

OBſervation is, the attention ſpecially paid to things remarkable.

Things become remarkable by their reference to ourſelves, or by their compariſon, ſimilitude, or contraſt, with each other.

Collections of obſervations, or of facts, conſtitute hiſtory, either deſcriptive or narrative.

Deſcriptive hiſtory is the detail of coexiſtent circumſtances and qualities.

Narrative hiſtory is the detail of ſucceſſive events.

SECT.

SECT. V.

Memory.

MEmory is the recollection of ſubjects paſt.

It is caſual, or intentional.

It is caſual, when ſubjects or thoughts, by any connection of their own, recur to the mind.

It is intentional, when the mind, from deſign, recalls any ſubject or thought.

SECT. VI.

Imagination.

IMagination is the ſtating of objects as inveſted with all their qualities and circumſtances, real or fictitious.

Objects imagined may be deſcribed,

bed, may excite ſentiment and paſſion, and lead our deſires and averſions.

Hence imagination is the chief faculty employed in deſcription, invention, and perſuaſion, and in determining our choice of purſuits.

Different nations, ages, and men, are under the influence of different imaginations or opinions.

Such imaginations, when fortified by habit, do not give way to reaſon or conviction.

Objects are imagined ſeparately or jointly.

In the ſeparate images of things, are conſidered their real or poſſible qualities and circumſtances.

In their joint images are conſidered their ſimilitude, analogy, or oppoſition.

Similitude conſiſts in the likeneſs of parts.

Analogy conſiſts in the ſimilarity

ty of relation and proportion of parts.

Oppoſition conſiſts in the contrariety of qualities, and proportions, or relations.

Similitude leads to arrangement, and the claſſing of objects together.

Analogy leads to the rhetorical figures of ſimile, metaphor, and allegory.

Oppoſition leads to diſtinctions, antitheſes, and contraſt.

SECT. VII.

Of Abſtraction.

ABſtraction is the ſtating of qualities and circumſtances apart from ſubjects, qualities, or circumſtances, to which they are actually joined in nature.

Thus, in arithmetic and geometry, number and quantity are ſtated apart from any ſubject.

In abſtract terms, qualities are ſtated apart from their ſubjects.

In mechanics, motion is ſtated apart from reſiſtance or friction.

In generic names, qualities in which individuals agree, are ſtated apart from thoſe that diſtinguiſh them.

Abſtraction is in a great meaſure arbitrary; hence the various methods of claſſification followed in natural hiſtory.

Abſtraction is the reverſe of imagination: it is the foundation of general and comprehenſive reaſoning, not of deſcription or paſſion.

Men are ſometimes the dupes of their own abſtractions, and conſider them as ſeparate and independent exiſtences.

Abſtraction tends to diſqualify men for affairs. It is the habit of conſidering circumſtances apart; while in affairs all circumſtances come

come together, and muſt be kept in view at once.

SECT. VIII.

Of Reaſoning.

REaſoning comprehends claſſification of particular ſubjects, inveſtigation, and application of general rules, together with demonſtration or proof.

In claſſification we refer particulars to certain predicaments, fixed or arbitrary.

In inveſtigation we obſerve what is common, or ought to be common, in many particular operations.

In the application of rules we ſhow the particulars which are comprehended under them.

In this ſcience conſiſts.

In demonſtration, or proof, we employ teſtimony, or argument.

Argument is taken, either *a priore*, or *a poſteriore*.

Argument *a priore*, proves or diſproves the fact from the law, or the effect from the cauſe.

Every argument of this ſort may be reduced to a perfect ſyllogiſm, conſiſting of three propoſitions: of which one announces the law, either negative or poſitive; another compares the law with the fact to be proved; and the third affirms or denies the fact, from its conformity with or oppoſition to the law.

Argument *a poſteriore*, proves or diſproves the rule, from the enumeration of particulars.

Every ſuch argument may be reduced to a ſyllogiſm conſiſting of two propoſitions: one is induction, or enumeration of facts; the other affirms or denies the law, from the concurrence, or want of concurrence, in the particulars brought to eſtabliſh it.

SECT.

SECT. IX.

Of Foreſight.

FOreſight is the faculty of conjecturing what is to follow from the paſt or preſent.

It requires penetration and ſagacity: the firſt, to comprehend all the circumſtances of the caſe in queſtion; the ſecond, to perceive what is likely to follow from thoſe circumſtances.

Penetration and ſagacity are the foundations of good conduct, art, and ſkill.

SECT. X.

Of Propenſity.

MEN, like the other animals, are active, from original choice, and propenſity.

They delight in freedom and exerciſe; they pine under reſtraint, or in the abſence of objects fit to excite them.

The activity of man's nature conſiſts in propenſity, ſentiment, deſire, and volition.

Propenſities have their effect prior to the experience of pleaſure or pain.

They are either animal or rational.

The animal propenſities are the appetites to food, ſleep, and the propagation of the ſpecies.

Theſe appetites are periodical or occaſional, and are intermitted when their ends are obtained.

The rational propenſities lead to ſelf-preſervation, to the care of our children, to the union of the ſexes, to ſociety, and to excel.

Theſe, like animal appetites, give a direction to human nature prior to

to any experience of their gratifications.

But, contrary to the analogy of animal appetites and gratifications, they may continue to occupy habitually, without ſatiety or diſguſt.

All affections of kindneſs are, in their own nature, pleaſant.

Having theſe natural propenſities, we ſtate objects under the predicaments of good or of evil as they are ſuppoſed conducive or oppoſite to the purpoſes of our propenſities.

Whatever is thought conducive to preſervation, is reckoned good.

Whatever is thought pernicious, is reckoned evil.

Whatever promotes the welfare of ſociety, or of any object beloved, is therefore ſuppoſed good.

What is pernicious, is ſuppoſed evil.

Whatever is thought in itſelf to conſtitute a perfection, or to give eminence, is ſuppoſed good.

Whatever

Whatever is thought to conſtitute imperfection, or to ſink our comparative value, is ſuppoſed evil.

Hence the great influence of opinion on the external purſuits of men.

SECT. XI.

Of Sentiment *.

SEntiment is a ſtate of mind relative to ſuppoſed good or evil.

Sentiments are pleaſant or painful.

The ſentiment ariſing from a ſuppoſed good attained, is pleaſant; from a ſuppoſed good miſſed or forfeited, is painful.

A ſuppoſed evil avoided, is pleaſant; incurred, is painful.

The pleaſure in both theſe caſes is termed *Joy*.

* See Theory of agreeable ſentiments.

The

The pain is termed *Sorrow*, or *Grief*.

A ſuppoſed good in expectation of being gained, is pleaſant; in expectation of being loſt, is painful.

The pleaſure in either of theſe two caſes is termed *Hope*.

The pain is termed *Fear*.

Thus all our ſentiments, or paſſions, may be referred to four general heads:

Joy, Grief, Hope, and Fear.

But there is a great variety in the ſentiments of joy and grief, of hope and fear, correſponding to the nature of the ſuppoſed good or evil, and of the propenſity by which we are directed towards it.

The ſentiments of thoſe who are occupied chiefly in their own preſervation, are, the ſenſe of ſafety and ſucceſs, or of danger and diſappointment.

The firſt may comprehend ſecurity, exultation, and inſolence; the ſecond,

ſecond, jealouſy, terror, and deſpair.

The moſt painful ſentiments of thoſe who are occupied chiefly by their regard to mankind, are alleviated by the pleaſures of affection, confidence, and good-will.

The ſentiments of thoſe who are occupied chiefly with the conſideration of excellencies or defects in themſelves, or in others, are, on the one hand, reſpecting themſelves, and their own abſolute perfections or defects, ſelf-approbation, and elevation of mind; on the other hand, ſhame, remorſe, and dejection.

In reſpect to comparative advantages, and ſuperiority to other men, their ſentiments are, exultation, vain-glory, inſolence, and contempt.

The ſentiments of men reſpecting real excellencies in others, are, eſteem, reſpect, and veneration.

Eſteem

Eſteem is a ſentiment of approbation tending to confidence.

Reſpect is a ſentiment of approbation tending to ſubmiſſion.

Veneration is a high degree of reſpect.

The ſentiments of men reſpecting defects are, contempt, ridicule, indignation, and rage.

Contempt is a ſentiment of diſapprobation, tending to indifference or neglect.

Ridicule is a ſentiment of diſapprobation, mixed with mirth or pleaſantry.

Satire and Raillery conſiſt in expoſing what is ridiculous.

Buffoonery conſiſts in aſſuming it.

As the ſentiment of diſapprobation predominates, ridicule approaches to ſcorn.

As the ſentiment of pleaſantry predominates, it approaches to mirth,

mirth, and may even be mixed with tenderneſs.

The ſcornful are rarely ſuſceptible of admiration or love.

Indignation is a ſentiment of diſapprobation, mixed with reſentment.

Rage is a ſentiment of diſapprobation, mixed with hatred.

The ſentiments of men reſpecting comparative advantages in others, differ according to the ſtate of their affections, and according as they ſtate a compariſon with themſelves, or with other men.

The ſuperiority of thoſe they love, compared to themſelves, produces deference and reſpect.

The ſuperiority of thoſe they hate, ſo compared, excites envy; of thoſe who are indifferent, excites humiliation, or is a mortification.

The ſuperiority of thoſe they love, compared to others, excites exultation;

tion; of thoſe they hate, compared to others, excites animoſity and regret.

SECT. XII.

Deſire and Averſion.

DEſire and averſion ariſe from opinion, founded in experience or fancy.

Mens deſires and averſions are various as their opinions.

The moſt remarkable examples of ſettled or habitual deſire, are, ſenſuality, avarice, ambition, public ſpirit, greatneſs of mind, or tenacity of what is noble and juſt.

Theſe deſires, though in ſome inſtances they carry us far beyond the ſcope of our original propenſities, have a foundation in ſome natural propenſity, and lead to the objects which, in our opinion, tend to fulfil its purpoſe.

Senſuality is founded in animal appetites; and implies a purpoſe of enjoyment even during the intermiſſions of appetite.

Avarice is founded in the care of ſelf-preſervation; but limits it to the deſire of riches, or the means of ſubſiſtence.

Ambition is the deſire of ſuperiority, ſuppoſed to conſiſt in the poſſeſſion of power or command.

Public ſpirit is founded in the propenſity to ſociety, enlarged into zeal for the rights of a country or of mankind.

Greatneſs of mind is founded in the propenſity to excel, limited to perſonal qualities and real perfections.

SECT.

SECT. XIII.

Of Volition.

VOlition is the act of will in free determinations.

The determination is free wherever it is voluntary.

The motives from which we chuſe, do not deſtroy our freedom; for to act from motives in the manner we ourſelves approve of, to be willing, voluntary, and free, in any action, are ſynonymous terms.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART II.
Theory of Mind.

CHAP. I.
General Observations.

THE theory of mind is the knowledge of phyſical laws, collected from fact, and applicable to explain appearances.

The intellectual ſyſtem, as well as the material, hath its laws; but it is apprehended that the laws of the intellectual

intellectual ſyſtem are not equally well obſerved *.

This apprehenſion comes from our not conſidering the diſtinction of laws, as well as of ſubjects.

The term *law* is ambiguous.

It ſometimes ſignifies the uniformity of a fact in nature.

In this ſenſe it is employed by natural philoſophers †.

In this ſenſe chiefly the material ſyſtem is ſaid to have its laws.

And in this ſenſe every law muſt be ſtrictly obſerved; becauſe it is law only ſo far as it is obſerved. Gravitation is a law only ſo far as bodies actually gravitate.

But in this ſenſe, too, the intellectual ſyſtem hath its laws; for in the operations of mind ſome facts are uniform.

* Spirit of Laws, book 1.

† See Laws of Nature, in the Introduction to every ſyſtem of mechanics.

In this ſenſe, therefore, the laws of the intellectual ſyſtem are equally well obſerved with thoſe of the material.

The term *law*, however, has a farther ſignification, and means a rule of choice, which we deſire to have uniformly obſerved.

In this ſenſe it is employed commonly by moraliſts and civilians.

In this ſenſe moſt commonly it is meant, that the intellectual ſyſtem hath its laws.

And in this ſenſe the law may ſubſiſt, without being ſtrictly obſerved: for it is law in conſequence of its rectitude, or of the authority from which it proceeds; not in conſequence of its being the fact.

But although the more important laws of this ſort relate to the intellectual ſyſtem, yet there are laws of the ſame kind relating to the material ſyſtem.

Such are the expreſſions of what is

is required to elegance, beauty, or utility, in natural ſubjects; or of what is required to perfection in works of art.

In ſuch reſpects material as well as intellectual ſubjects, may deviate from the law.

In the vegetable and animal kingdoms there are deformities, diſtortions, and diſeaſes; as there are in the intellectual kingdom follies, abſurdities, and crimes.

To avoid, as much as poſſible, theſe ambiguities, laws of the firſt ſort, whether relating to mind or matter, have been termed *phyſical laws*; and laws of the ſecond ſort, *moral laws* *.

Common uſe will authoriſe this interpretation; although the uſe of theſe terms is by no means determined and preciſe: for frequently, whatever relates to matter, is ſaid to

* See Introduction.

be

be phyſical; whatever relates to mind, is ſaid to be moral.

In conſequence of this vague uſe of the term *moral*, any theoretical queſtion relating to mind has been ſubſtituted for moral philoſophy; and ſpeculations of little moment have ſupplanted the ſtudy of what men ought to be, and of what they ought to wiſh, for themſelves, for their country, and for mankind.

CHAP.

CHAP. II.

Enumeration of Phyſical Laws.

SECT. I.

Laws of the Underſtanding.

THE hiſtory of the underſtanding may furniſh three principal rules, or phyſical laws.

The firſt relates to the conſciouſneſs of ourſelves.

The ſecond to the perception of other things.

The third to the comprehenſion of ſubjects of which we are conſcious, or which we perceive.

FIRST LAW.

We are conſcious of our exiſtence, operation, and will.

SECOND

Second Law.

Perception is obtained by the intervention of *media*, no way reſembling the ſubject of ſuch perception:

1. The medium of ſenſation.
2. The medium of ſigns.

The ſenſation by means of which we naturally perceive the exiſtence of external ſubjects, has no reſemblance to thoſe ſubjects.

The ſigns by which we naturally perceive the exiſtence and meaning of other minds, have no reſemblance to the things ſignified.

From this law may be explained the effect of rites in religion; of manners, as well as language, in common life; of title, fortune, and faſhion, as grounds of eſteem.

Rites indicate devotion.

Manners indicate ſocial diſpoſitions.

Language

Language indicates meaning.

Title and fortune indicate comparative excellence.

Faſhion indicates condition and rank.

Many ſigns having no reſemblance to, nor connection with the things they indicate, may vary in different countries, and change in the ſame country, while the things they denote continue the ſame.

Third Law.

To comprehend any particular ſubject, is to know ſome general predicament or claſs to which it may be referred.

Thus to comprehend the nature of any particular being or quality, is to be able to refer it to ſome known ſpecies or claſs.

To comprehend any operation or phenomenon, is to be able to refer it

it to ſome eſtabliſhed rule, or known law of nature.

Thus we comprehend all the phenomena that can be referred to the laws of gravitation, coheſion, electricity, and ſo forth.

From this law may be explained all the phenomena of ſcience, the uſes of claſſification, inveſtigation, and experiment, of hypotheſis, theory, and ſyſtem.

To make a new diſcovery, is either to inveſtigate ſome law, or to point out ſome new application.

Thus Sir Iſaac Newton diſcovered the law of refraction, and applied it to the rainbow, and to the colours of natural bodies.

Dr Franklin applied the laws of electricity to lightning, and to the aurora borealis.

The laws of nature are the genera and ſpecies under which particular facts are ranged, or the predicaments

dicaments to which they are referred.

Some predicaments have their generic names in every language, have been univerſally admitted, and are coeval with human thought.

Such are, ſubſtance, quality, quantity, number, perfection, defect, good, evil, time, place, &c.

Others are more arbitrary, and choſen to render human knowledge methodical and comprehenſive.

Such are the claſſes and orders of being employed in the method of different natural hiſtorians.

SECT. II.

Laws of the Will.

THE hiſtory of the human will may furniſh the three following general rules.

First Law.

Men are diſpoſed to preſerve themſelves.

Hence danger alarms, and ſafety pleaſes; what is hurtful, repels; what is uſeful, attracts.

Under this laſt title men deſire the means of ſubſiſtence, health, ſtrength, beauty, parts, temper, reſolution, &c.

This is commonly termed *the law of ſelf-preſervation:* but ſo great is the variety of mens opinions, and ſuch the caprice of their paſſions, that the melancholy and froward ſeem to be at variance with themſelves, and appear to deſire what is deſtructive.

Second Law.

Men are diſpoſed to ſociety.

They take part with their fellow-creatures, and conſider general calamities as matter of regret, general welfare as matter of joy.

This may be termed *the law of ſociety*; and is that which qualifies the individual to be the member of a community, inclines him to contribute to the general good, and intitles him to partake in it.

The reality of this law has been diſputed:

1. Becauſe all the actions of men are not beneficial to ſociety.

2. Becauſe even beneficial actions may be accounted for from other motives.

The actions of men are regulated, not by this law only, but by this combined with every other law of their nature.

If the law of ſelf-preſervation, for the moſt part, prevail, it does not follow, that the law of ſociety has no effect.

The external effect, or tendency, of every law, is diverſified in different circumſtances.

The general tendency of the law of gravitation is, to cauſe bodies to approach to each other; as the tendency of the law of ſociety is, to cauſe men to produce public good, or to abſtain from public harm.

But the external reſult is oppoſite in oppoſite circumſtances.

Heavy bodies are not always falling, nor ſocial natures always acting for the common good.

When bodies are falling, gravitation accelerates; when placed on a ſupport at reſt, it is a preſſure; when they are thrown upwards, it is a retardation; when they are moved obliquely, it is a continual change of direction, &c.

The

The analogy of this law may fully illuſtrate the law of ſociety.

This law, in ſome caſes, excites to beneficence; in other caſes, only retards miſchief. It increaſes our ardour in actions beneficial to our fellow-creatures; it reſtrains or diminiſhes our ardour in actions hurtful; it gives ſatisfaction in one caſe, and remorſe in another. And thus the operation of the law of ſociety, like that of gravitation itſelf, is always real, though the external reſult is not always the ſame.

As to the motives from which actions beneficial to mankind proceed, theſe may be various in various inſtances; but no perſon can know, except in his own caſe, that there are no ſincere affections of benevolence and good-will.

THIRD LAW.

Men are diſpoſed to better themſelves.

They diſtinguiſh perfections from defects: they admire and contemn.

This may be termed *the law of eſtimation*, or *of progreſſion*: it is an ultimate fact in the nature of man, and not to be explained by any thing that is previouſly or better known.

Excellency, whether abſolute or comparative, is the ſupreme object of human deſire.

Riches, power, and even pleaſure, are coveted with extreme ardour, only when they are conſidered as the marks of eminence or rank.

CHAP.

CHAP. III.

The foregoing laws applied in explaining the phenomena of Intereſt, Emulation, Pride, Vanity, Probity, and Moral Approbation.

SECT. I.

Of Intereſt.

INtereſtedneſs appears in ſolicitude about our ſituation and future proſpects: when in extreme it ſtifles affection, and leads to the commiſſion of frauds and of crimes.

This paſſion is comprehended in the law of ſelf-preſervation, and is a partial application of that law, founded in an opinion of the great conſequence of external things.

Opinions, and their conſequences, are more or leſs prevalent, in proportion

portion to the prevalence of circumſtances by which men are led to entertain ſuch opinions.

For this reaſon intereſtedneſs is very prevalent.

The opinion on which it is founded, ariſes from the following circumſtances.

1. The inſtinctive deſire of life.

2. The early prepoſſeſſion in favour of ſenſual objects, becauſe they firſt ingroſs our attention.

3. The continued care of eſtate or fortune that is neceſſary whereever property is eſtabliſhed.

4. The rank which riches are ſuppoſed to beſtow.

From this laſt conſideration, the law of eſtimation comes to be combined with the law of ſelf-preſervation, in accounting for the intereſted paſſions of men.

The intereſted conſiſt of two claſſes; the prodigal, and the avaricious.

The

The prodigal are commonly moſt rapacious, being urged by the deſire of enjoyment.

The avaricious are more cautious, being reſtrained by the fear of want.

Intereſt and ſelfiſhneſs are ſometimes employed as ſynonymous terms: but the ſenſual, the proud, the ambitious, the vain-glorious, are not leſs ſelfiſh than the intereſted.

And the fault of the intereſted, conſiſts not in the meaſure of care beſtowed on themſelves, but in the miſtake of their own principal concerns.

SECT. II.

Theory of Emulation.

EMulation appears in competitions, heart-burning, and variance.

It

It ariſes moſtly in the purſuit of things of mere comparative value.

Such are, riches, renown, power, or rank.

The value of riches is comparative; for it conſiſts, not in any abſolute meaſure of wealth, but in poſſeſſing more than other men.

Renown conſiſts in being more talked of than others.

Power conſiſts in being able to command other men; and rank, in being of ſuperior ſtation.

They who deſire what cannot be affected by compariſon, ſuch as real happineſs, and real virtue, apart from the reputation of either, are not addicted to emulation.

Emulation may be directed to uſeful actions, and have effects ſerviceable to mankind; but is itſelf an unhappy diſpoſition, a ſource of envy, jealouſy, and malice.

The emulous are not ſatisfied with any attainment, while others poſſeſs

poſſeſs an equal, or a ſuperior, meaſure, of the ſame advantage.

The object of Cæſar's deſire was not greatneſs, or goodneſs; but to be the firſt in reſpect to thoſe articles which the vulgar admired; the firſt in a village, rather than the ſecond at Rome.

The emulous are enemies to each other, and to men of ſuperior reputation. They are, for the moſt part, vigilant, courageous, and vehement; indulgent to thoſe who are confeſſedly inferior, but malicious to thoſe who, in point of conſideration, are equal or ſuperior to themſelves.

They commonly prefer mean company in which they can aſſume a ſuperiority, to better in which they muſt ſubmit to equality.

Emulation is comprehended in the law of eſtimation, and ariſes from an opinion that excellence conſiſts in ſuperiority.

SECT.

SECT. III.

Of Pride.

PRide appears in neglect, inattention, contempt, and arrogance.

It is founded therefore in a mean opinion of other men.

It is comprehended in the law of eſtimation; for it is in conſequence of this law that men either admire or contemn.

Pride, or contemptuouſneſs, is inconſiſtent with affection, candour, or any regard to the rights of mankind.

The deſire of perfection, and even the love of virtue, have been confounded with pride.

This abuſe ſometimes proceeds from inattention to propriety of language:

Sometimes from affectation of figurative

gurative ſpeech; as when we ſay, *decent pride*, *noble pride*, *the pride of doing well*, &c. Here it implies contempt; but, in a good ſenſe, the contempt of what is unworthy.

At other times this confuſion of words is affected, in order to favour a ſyſtem; as when we would depreciate virtue, or diſprove its reality, by ſpeaking of it in terms which are commonly taken in a bad ſenſe *.

Pride reſults from the law of eſtimation, as an abuſe of it, or an improper contempt of other men.

It is ridiculous to attempt confounding the love of virtue with pride: their tendencies are oppoſite.

Virtue is a reſpect for the rights of men, and eſteem of what tends to the good of mankind.

Pride is a diſreſpect for the rights of men, and contempt of mankind.

* Mandeville's works.

SECT. IV.

Of Vanity.

VAnity appears in affectation and oſtentation.

The vain affect what they think will captivate the attention and merit the praiſe of others.

They are oſtentatious of what they ſuppoſe conſtitutes their importance, as of their perſons, fortune, equipage, talents, and adventures.

They are gratified by the admiration of others.

Vanity is comprehended in the law of eſtimation; for it ſuppoſes the diſtinction of admirable and contemptible, however miſunderſtood.

It is the reverſe of pride, overrating the value of other people's opinions, which pride contemns.

The

The vain are capable of great efforts of courage and reſolution, when ſupported by public opinion, and when acting in public view; but without this ſupport, are feeble and irreſolute.

The attention they pay to other men not proceeding from the heart, but from the deſire of conſequence and applauſe, they always fail where the fruits or effects of real affection are expected.

SECT. V.

Of Probity.

PRobity appears in acts of juſtice and beneficence.

Men who regard the rights, and feel for the ſufferings, of others; who are ever ready to do acts of kindneſs; who are faithful and true to the expectations they raiſe,—are ſaid to have probity.

Probity implies the love of mankind, founded in a temper that is compaſſionate, candid, and liberal.

It is comprehended therefore in the law of ſociety.

Probity may be underſtood to conſtitute an excellency, but cannot be the foundation of pride or contemptuouſneſs.

It may be underſtood to merit applauſe, but is directed by affection, not by the deſire of admiration or attention.

Men of probity prefer integrity to any other kind of ſuppoſed excellency; but frequently have a modeſt opinion of their own merits.

SECT.

SECT. VI.

Of Moral Approbation in general.

MOral approbation is the judgement formed of characters and actions, as being excellent or juſt.

It is oppoſed to diſapprobation or blame.

The apprehenſion of excellence, or defect, in other ſubjects, as of beauty or deformity in merely animal or material natures, is accompanied with ſimple emotions of admiration or contempt: but the apprehenſion of excellence or defect in ourſelves, is accompanied with elation of mind, ſhame, and remorſe; in others, with complacency, veneration, love, pity, indignation, and ſcorn.

Men fond of paradox, have queſtioned the reality of moral diſtinc-

tions: but expreſſions of praiſe and blame in every language, the importance of mens actions to mankind, the oppoſite nature of diſpoſitions that form the characters of men, the moſt vehement ſentiments of the human heart, which refer to this ſubject,—ſhow, that the diſtinction of moral good and evil is real, and univerſally acknowledged.

In treating of moral approbation, four queſtions may be ſeparately ſtated.

1. What do men, for the moſt part, approve or blame?

2. By what principle, or conſideration, are they directed, in particular caſes, to beſtow their approbations or cenſures?

3. What is the proper ſubject of approbation or cenſure?

4. What is the rule or principle by which men ought to judge of moral characters?

The two firſt queſtions are phyſical,

ſical, and belong to this place; the two laſt are moral, and their anſwer will be comprehended in the firſt or moſt general laws of morality.

The ſubject of morality has been greatly perplexed by the blending of theſe queſtions together.

The actual errors and corruptions of men, have been muſtered up as ſo many proofs, that there is nothing which men ought to eſteem or deſire.

In phyſical queſtions, we attend to the fact; in moral queſtions, to what is good or evil. The fact, however well eſtabliſhed, and however univerſal, does not preclude us from conceiving and chuſing what is better.

If all men were actuated by intereſt, emulation, pride, or vanity, it would not follow, that probity is no object of eſteem or deſire. When we are told, therefore, that candour and benevolence are hypocriſy; that courage

courage is anger; elevation of mind is pride; and temperance formality, or affectation,—we may aſk, whether theſe allegations are meant as a ſtate of facts merely, or as examples of what men ought to be? The facts may be true; but to chuſe a pattern confeſſedly bad, would be abſurd.

SECT. VII.

Of the Object of Moral Approbation.

THE object of moral approbation, is either ſome diſpoſition of the mind, or ſome external action.

Probity is the moſt approved diſpoſition; and the external expreſſions of probity, the moſt approved actions.

Theſe conſtitute the whole, or the moſt eſſential part, of virtue.

Other

Other ſubjects may be admired or contemned, but theſe alone are the ſubjects of moral approbation.

SECT. VIII.

Of the Principle of Moral Approbation.

MOral approbation is comprehended in the law of eſtimation; and is indeed the principal fact from which we infer the reality of this law; as the vertical preſſure and fall of bodies are the principal facts from which, in mechanics, we infer the law of gravitation.

Other deſires or affections may lead us variouſly to beſtow our eſteem or contempt, but none other will account for our having eſteem and contempt to beſtow.

According to this law, men refer the qualities and exertions of their own nature, together with many other

other particulars, to the oppoſite predicaments of excellency and defect.

Yet in this they are not led by any inſtinctive or invariable rule: they differ in their choice of characters, and beſtow their eſteem on different ſubjects.

One man admired Cato; another admired Cæſar.

The affections and deſires of men, though different from approbation or eſteem, yet warp their judgements, and determine their opinions.

The ambitious and intereſted ſeldom admire what is adverſe to their own deſigns.

Cæſar wrote an invective againſt the memory of Cato; and though this, by others, was thought ridiculous *, yet it is probable that he himſelf was ſincere, and really felt

* Vid. Cicero Epiſt. to Atticus, book 12. ep. 45.

the

the zeal of Cato for the preſervation of the republic, as matter of diſſervice and demerit to himſelf.

Men are led, by the prepoſſeſſions of cuſtom, or by ſuperſtition, to approve or condemn mere external rites and obſervances.

They are led by intereſt, or ambition, to approve of actions favourable to their own deſigns.

They are led by their ſituations to admire particular qualities, as the military or pacific virtues.

They are led by benevolence to approve of qualities that fit men to procure the good of mankind.

So far as the merit, or moral excellence, of a man, conſiſts in ſuch qualities, we may venture to affirm, that benevolence, or the law of ſociety, combined with the law of eſtimation, is the principle of moral approbation *; and that to beſtow

* Vid. Lord Shafteſbury's Inquiry into Virtue.

our

our eſteem on virtue, is to love mankind.

Syſtems have differed chiefly by deriving our choice of actions and characters, ſome from the law of ſelf-preſervation, and others from the law of ſociety *: but the fact is, that the laws of ſelf-preſervation, and of ſociety, when well underſtood, coincide in all their tendencies and applications.

Man is by nature a member of ſociety; his ſafety, and his enjoyment, require that he ſhould be preſerved what he is by nature; his perfection conſiſts in the excellency or meaſure of his natural abilities and diſpoſitions, or, in other words, it conſiſts in his being an excellent part of the ſyſtem to which he belongs. So that the effect to mankind ſhould be the ſame, whether

* See Smith's Theory of Moral Sentiments.

the

the individual means to preſerve himſelf, or to preſerve his community: with either intention he muſt cheriſh the love of mankind, as the moſt valuable part of his character. As this is the foundation of probity, it is that which leads men to give to probity, as ſuch, the preference to every other diſpoſition or habit of mind *.

* Eſſay on the Hiſtory of Civil Society, part 1. ſect. 6.

CHAP. IV.

Of the nature and future prospects of the Human Soul.

SECT. I.

Of the Immateriality of the Soul *.

THE nature of man has been univerſally conſidered as mixed, or compoſed of an animal and intellectual part, of body and mind.

The functions which are referred to corporeal organs, belong to the animal nature; thoſe which are not referred to any corporeal organ, belong to the intellectual nature.

* See Baxter on the Immateriality of the Soul.

Man,

Man, in the reſult of his animal nature, differs from the brutes only in the degree or manner of what he exhibits; but in that of his intellectual nature, he differs totally, and in kind.

Being deſtined to act from obſervation and experience, not from ſpecial inſtinct, he is, when ignorant, apparently inferior in artifice and power to the other animals; but when knowing, greatly ſuperior.

That by which he excels other animals, is termed *his mind*, and has been univerſally diſtinguiſhed from *body*.

The properties of mind have no analogy to thoſe of matter: properties of the one are even oppoſite and contradictory to properties of the other.

Matter is diviſible and inert; mind is indiviſible and active.

What are called *faculties of mind*, are its active powers.

They are not diſtinct parts of a complicated nature, but abſtractions, under which the operations of mind are claſſed.

SECT. II.

Of the Immortality of the Soul.

EVery queſtion relating to a future ſtate, muſt be ſolved, from the nature of the ſoul, from the ſtate of the fact at death, or from principles of religion.

The nature of the ſoul being indiviſible, or not ſubject to a diſſolution of parts, and annihilation being unknown in the order of nature, it follows, that the ſoul is phyſically immortal.

The fact at death is, that the body ceaſes to be animated, or to give ſigns of the preſence of mind: but

but mind being of a different nature, may exist apart.

No argument can be drawn from principles of religion, until these principles be considered.

INSTITUTES
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MORAL PHILOSOPHY.

PART III.

Of the Knowledge of God.

CHAP. I.

*Of the Being of God**.

SECT. I.

Of the Universality of this Belief.

THE belief of the existence of God has been universal.

The cavils of sceptics do not de-

* See Ray's Wisdom of God in the creation. Sermons at Boyle's Lectures.

rogate

rogate from the univerſality of this belief, no more than like cavils derogate from the univerſality of the perception men have of the exiſtence of matter; for this likewiſe has been queſtioned.

This belief does not imply any adequate notion of the Supreme Being. Men, for the moſt part, have entertained notions on this ſubject, unworthy even of human reaſon.

But the belief that an artiſt, or author, exiſts, is conſiſtent with mean and improper notions of his capacity and intentions.

The belief that Homer compoſed the Iliad, is compatible with inadequate notions of that poet's genius.

The belief that books read at ſchool were compoſed by men, is conſiſtent with a notion, that even the claſſics were written for the uſe of children.

SECT.

SECT. II.

Of the Foundations of this Belief.

THE belief of God being univerſal, cannot depend on circumſtances peculiar to any age or nation, but muſt be the reſult of human nature, or the ſuggeſtion of circumſtances that occur in every place and age.

In the nature of man, there is a perception of cauſes from the appearance of effects, and of deſign from the concurrence of means to an end.

Sceptics have not denied the reality of theſe perceptions; they have rather complained of them, as the foundation of general and vulgar errors.

But our knowledge in every ſubject is founded in ſome ſuch natu-

ral

ral perception, as in the caſe of what we know from ſenſation, from teſtimony, and from interpretation.

In any of theſe caſes, we can aſſign no reaſon for our belief, but that we are by nature made to perceive.

No argument is required to prove, nor can argument have any effect to refute, where nature has determined that we ſhall continue to believe.

No one can refrain believing, that the eye was made to ſee, the ear to hear; that the wing was made for the air, the fin for the water, the foot for the ground; and ſo forth.

The perception of an end or intention in the works of men, comprehends the belief of an artiſt. The perception of end or intention in the works of nature, comprehends the belief of God.

Nature

Nature presents final causes wherever our knowledge extends.

Final causes may be considered as the language in which the existence of God is revealed to man.

In this language the sign is natural, and the interpretation instinctive.

CHAP.

CHAP. II.

Of the Attributes of God.

SECT. I.

Of theſe Attributes in general.

THE attributes of God are characters of the Supreme Being ſuggeſted by his works.

They may be referred to five heads; Unity, Power, Wiſdom, Goodneſs, and Juſtice.

SECT. II.

The Unity of God.

THE perception of final cauſes implies the belief only of one God.

The

The notion of a plurality of gods is a corruption.

Different nations ſeparately formed their notions of the Deity. On comparing theſe notions, they did not endeavour to reconcile them to the belief of one ſupreme being; they formed a liſt compoſed of many gods, having their different attributes and ſeparate provinces in nature.

SECT. III.

Of Power.

POwer is the attribute of the firſt cauſe; and in the creator of all things, cannot be circumſcribed.

SECT.

SECT. IV.

Of Wiſdom.

WIſdom is the attribute of intelligence; and the belief of wiſdom in the author of nature, is implied in the belief of final cauſes.

The wiſdom of God comprehends the knowledge of every nature, of the mutual relations and dependencies of different natures, and of what is beſt for each, and for the whole.

SECT. V.

The Goodneſs of God.

THis is the attribute of the creator and preſerver of all things.

The proofs of goodneſs are,

1. The creating of ſenſitive and rational beings.

2. The meaſures of good which they are made to enjoy.

3. The order eſtabliſhed for their preſervation.

Without the firſt, there would be no object on which goodneſs could exert itſelf.

And the numbers of ſuch objects, as well as the enjoyments they are made to receive, are proofs of goodneſs in the firſt cauſe.

2. What their numbers or enjoyments are, cannot be known to us; but the order and tendency of what we know, leads to the belief of univerſal good.

The lot of man is mixed, but his nature likewiſe is fitted to a mixed ſcene.

He complains of evil in his external circumſtances, or in his own nature and conduct.

The firſt ſubject of complaint is termed

termed *phyſical evil*; the ſecond, *moral*.

Phyſical evil is the diſſonance of things to man's deſires.

Without ſuch diſſonance there would be no place for active exertions.

Man's complaints, therefore, of phyſical evil are not ſymptoms of abſolute evil in nature, but the ſymptoms of an active nature in himſelf properly placed, and having proper excitements to exert its power.

A ſcene in which there were no apparent evils to be corrected, or, what is equivalent, no acceſſion of good to be gained, would be a ſcene of inaction, adverſe to the nature of man.

Or, in other words, a being that perceived no evil, or had no want, could have no principle of activity.

Man, by being employed as an active power in the order of nature,

is not made to forego his own happineſs.

His happineſs does not depend on the meaſure of conveniency he enjoys, but on the part he acts; not on his ſafety, but on the degree of courage he poſſeſſes; not on what he gains for himſelf or others, but on the degree of ardour and affection he exerts.

Moral evil is the diſſonance of man's nature to his conception of perfection.

Complaints of moral evil are the ſymptoms of a progreſſive or improving nature.

A being that perceived no moral evil, or no defect, could have no principle of improvement.

To remove the complaints of moral evil, it is neceſſary that men were either freed from all imperfections, or rendered inſenſible of the imperfections they have.

The firſt is impoſſible: Men muſt have

have the imperfections of created nature.

We know not what is the leaſt poſſible meaſure of theſe imperfections.

To be inſenſible of the imperfections he has, would be a blemiſh in man's nature.

This pungent ſenſe of his own errors and defects, is the ſource of his complaints, and of his improvements, and is a beauty in his nature.

He is a voluntary agent, deſtined to act under the following wiſe reſtraint:

That his hurtful diſpoſitions are painful to himſelf, and his beneficial diſpoſitions are pleaſant.

The ſuffering, as well as the enjoyment, in this caſe, is a proof of beneficence in the power that inflicts it.

3. Every part, in the order of na-

ture, is calculated for the preſervation of the whole.

Things the moſt remote, are made to concur to the ſame ſalutary purpoſes.

The order of the planetary ſyſtem is calculated for the preſervation of every being that occupies any part of this ſyſtem.

The pains, as well as the pleaſures, of living and ſenſitive creatures, tend to their preſervation.

The order of nature is preſerved by ſucceſſion, not by perpetuity of life: and whilſt the individual is periſhing, the ſpecies of every animal is ſafe, and the ſyſtem of nature is ſecured from decay.

SECT.

SECT. VI.

Of the Juſtice of God.

JUſtice is the reſult of wiſdom and goodneſs.

Juſtice is goodneſs impartial and univerſal; rendering every part ſubſervient to the good of the whole, and calculating the whole for the preſervation of its parts; but precluding every part from any enjoyment in what is pernicious to the whole.

The pains and pleaſures incident to man's nature, are diſtributed agreeably to this rule of juſtice.

For to ſum up the whole, Benevolence is always pleaſant, malice is always painful.

CHAP.

CHAP. III.

Of a Future State.

CONtrary to the appaarances at death, the human ſoul has been generally ſuppoſed to ſurvive its ſeparation from the body, and to be reſerved to a future ſtate of rewards and puniſhments.

This apprehenſion is agreeable to the moſt rational notions of the goodneſs and juſtice of God.

That goodneſs which diſpoſed the Almighty to create, may likewiſe diſpoſe him for ever to preſerve his intelligent creatures.

There is a continual creation of rational as well as animal natures.

But animal natures are certainly extinguiſhed; why not rational?

The firſt is neceſſary. The world would be overſtocked with animals,

if generations did not die to make way for each other.

But the world of ſpirits may, without inconvenience, increaſe for ever.

The deſire of immortality is inſtinctive, and is a reaſonable intimation of what is intended by the author of this deſire.

The progreſs of man's intelligent nature may be continued beyond the attainments of this life.

The government of God is righteous; but man's inſtinctive deſire of diſtributive juſtice is not fulfilled in this life. Hence the univerſal belief, that wicked men are to receive additional puniſhments, and good men additional rewards, in a future ſtate.

" Diverſo itinere, malos a bonis " loca tetra, inculta, fœda, atque " formidoloſa, habere *."

* Cato. in Saluſt's Hiſt. Cat. conſpiracy.

INSTI-

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PART IV.

Of Moral Laws, and their moſt general Applications.

CHAP. I.

Definitions.

MORAL law, as diſtinguiſhed from phyſical law, is any general expreſſion of what ought to be.

In this ſenſe, the rules of art, the canons of beauty and propriety, relating

lating to any ſubject whatever, are to be claſſed with moral laws *.

Moral law, as referred to intelligent natures, is any general expreſſion of what ought to be choſen or done.

Mechanical operations proceed without object or opinion.

Animal operations are determined by inſtinct.

Rational actions by opinion of what is good.

Hence good, where-ever apprehended or expreſſed, implies an obligation to determine the choice of every rational being to which it refers.

Moral laws may be conſidered under different aſpects, and diſtinguiſhed by different titles.

Conſidered in reſpect to their ſource, they may be diſtinguiſhed

* See Hutcheſon of the Ideas of Beauty and Virtue.

as

as original, or natural, and adventitious, or conventional.

Conſidered in reſpect to their ſubjects, they may be diſtinguiſhed by denominations taken from thoſe ſubjects; as laws of religion, or of ſociety; as laws of peace, or of war; as laws political, civil, or criminal.

Conſidered in reſpect to the perſons to whom they are applicable, they are laws of nations, or the laws of particular ſtates.

Moral philoſophy is the knowledge of moral laws reſpecting their ſources and their applications.

The obligation of every law, whether original or adventitious, general or partial, may be reſolved into an obligation of the law of nature.

The firſt or fundamental law of nature, relative to mankind, is an expreſſion

expreſſion of the greateſt good competent to man's nature.

Subſequent laws are branches and applications of this.

CHAP. II.

Of Good and Evil.

SECT. I.

General application of theſe terms.

THE terms *good* and *evil* are applied to enjoyment and ſuffering, perfection and defect, proſperity and adverſity.

Enjoyment and ſuffering are oppoſite conditions of a ſentient nature.

Perfection and defect are the oppoſite conditions of an improveable or progreſſive nature.

Proſperity and adverſity are the oppoſite circumſtances of an active being related to external objects.

SECT.

SECT. II.

Of Enjoyments and Sufferings.

THE enjoyments and ſufferings competent to man's nature, are either animal or intellectual.

The firſt are mere animal ſenſations of pleaſure and pain, or the gratifications and the wants of appetite.

The ſecond are exerciſe, or paſtime, and languor, affection and hatred, joy and hope, or grief and fear.

SECT. III.

Of Perfections and Defects.

THE principal perfections of man's nature are, the love of mankind, wiſdom, and force of mind.

The principal defects are, malice, folly, ſenſuality, and cowardice.

This contraſt is commonly expreſſed in the terms *Virtue* and *Vice*.

SECT. IV.

Of Proſperity and Adverſity.

THE circumſtances relative to man's nature that conſtitute proſperity, are, health, education, ſecurity, fortune, and long life.

The

The oppoſite circumſtances, of adverſity, are, diſeaſe, neglect, thraldom, poverty, and death.

SECT. V.

Variety of Syſtems in the application of the terms good *and* evil.

SYſtems reſpecting the application of theſe terms, may be reduced to three; the *Epicurean*, the *Peripatetic*, and the *Stoic*.

The Epicureans limited the terms *good* and *evil* to enjoyments and ſufferings.

They maintained, that animal ſenſe was the primary ſource of enjoyment; and that intellectual enjoyment is the remembrance or contemplation of this.

The Peripatetics complied with common uſe in the application of the terms *good* and *evil*. They com-

prehended under the firſt, enjoyment, perfection, and proſperity; under the ſecond, ſuffering, defect, and adverſity. But they held perfection and defect to be of the greateſt moment.

The Stoics limited the terms *good* and *evil* to virtue and vice.

They preferred pleaſure to pain, and the conſtituents of proſperity to thoſe of adverſity: but they maintained, that good and evil conſiſted not in the preſence or abſence of either, but in the proper habit and diſpoſition of the mind relating to them.

The tenets of the Epicureans and the Stoics, were extremes, and, in the common uſe of language, equally paradoxical.

The Peripatetics were ſupported by common opinion.

The Epicureans were ſuppoſed to promote ſelfiſhneſs, and indifference to

to mankind, and to ſink the pretenſions of human nature too low.

The Peripatetics were ſuppoſed to promote integrity and moderation.

The Stoics were ſuppoſed to promote heroiſm, and the love of mankind; but to raiſe the pretenſions of human nature too high.

The controverſy between thoſe ſchools related to the claſſification of objects.

It is of more moment to diſtinguiſh among things, however claſſed, what is the greateſt good or greateſt evil.

SECT. VI.

The comparative moment of Good and Evil in their different acceptations.

ANimal enjoyments are occaſional and tranſitory; they pall on the ſenſe, or muſt wait the returns of appetite.

Senſuality,

They occupy, therefore, but a ſmall portion of human life.

Senſuality, or the attempt to render them continual, impairs the power of enjoyment, and produces ſottiſhneſs.

Senſuality is a diſtemper of the imagination, whoſe diſguſts, or languor, need to be ſoothed by a round of amuſements and paſtime.

The ſenſe of animal pleaſure ſeems deſtined to excite to action, and to direct man to what is ſalutary; but not to conſtitute the enjoyment of human life. Bodily pain is occaſional, but not always tranſient.

It appears deſtined to direct men in ſhunning what is pernicious.

It is prolonged to a greater meaſure than any bodily pleaſure, and ſometimes actually ends only in death.

Suitably to its final cauſe, the pain remains while the attack on animal

nimal life continues; and it increaſes as the danger approaches.

In human life, for the moſt part, bodily pains are but ſlightly experienced.

The continued enjoyments of men in human life, ariſe from their active engagements, their affections, joys, and hopes.

Men are beſt amuſed with exerciſes that engage them moſt, that awaken their affections, and occupy their talents.

For this reaſon the more ſerious and urgent occupations are to be preferred to the more ſlight and apparently pleaſant.

Men of buſineſs have more enjoyment than men of diſſipation.

The reverſe of amuſement is inoccupation and languor.

Affections are pleaſant, in proportion as they are ardent, diffuſed, and extenſive.

Malice is painful, in proportion as

as it is diffuſed, rancorous, and implacable.

Joy and hope are intenſe and permanent, in proportion as they are founded in juſt opinions of things.

Falſe opinions lead to tranſient joy and to diſappointment.

Grief, and fear, and diſappointment, are moſt frequent, where men moſt miſtake the moment or value of things.

Vehement affection, active engagement, or paſſion, ſuſpend the ſenſe of bodily pleaſure or pain.

Intellectual enjoyments, in general, are preferable to the animal, as they may be rendered continual, or occupy the greater part of human life.

It appears, upon the whole, that ſerious engagements, benevolent affections, and juſt opinions, are the preferable ſource of enjoyments in human life.

It

It has been obſerved, that one of the ſtrongeſt propenſities in human nature is that which tends to perfection, or the bettering ourſelves.

The phenomena of this propenſity are, emulation, pride, vanity,—and moral approbation, magnanimity, and elevation of mind.

Under the influence of this propenſity, men forego any pleaſure, or incur any pain.

Benevolence, or the love of mankind, is the greateſt perfection; it is likewiſe the ſource of greateſt enjoyment.

Wiſdom, or a juſt eſtimation of things, is the beſt ſecurity againſt diſappointment, deſpair, and all the wretched paſſions.

Temperance is the proper uſe of enjoyments of every ſort.

Fortitude is an antidote to dejection and fear, the beſt ſecurity in danger, and the beſt alleviation of unavoidable ſufferings.

The

The higher animal pleaſure is rated, the more temperance, or the proper uſe of them, muſt be valued.

The more animal pain appears of moment, the more fortitude, that enables men, with preſence of mind, to avoid, or with patience to endure them, is to be valued.

The greateſt defects, as well as ſufferings, of men, are malice and cowardice, or reſult from intemperance and folly.

In human nature, therefore, the ſtate of greateſt enjoyment, and leaſt ſuffering, coincides with the ſtate of greateſt perfection.

Proſperity is actually valued, on account of its ſuppoſed tendency to conſtitute enjoyment, or to better our ſtate.

Health enables us to attain to the preferable enjoyments and accompliſhments of human life; but is not an abſolute ſecurity for either.

The

The proper uſe of health is good, the abuſe is evil.

Good education is calculated to promote good diſpoſitions, and to beſtow valuable accompliſhments.

Neglect has an oppoſite tendency.

But neither the beſt nor the worſt education neceſſarily produce any preciſe effect.

Security or liberty is beſt attained under wiſe political eſtabliſhments. It is the reſult of prevailing juſtice, and tends to promote the love of mankind.

This effect, and all the proper uſes of liberty, are good.

The abuſe is evil.

Thraldom is in all reſpects the reverſe of freedom or ſecurity.

Competency of fortune is ſufficient to all the purpoſes of animal life.

Increaſe of wealth does not proportionally increaſe enjoyment.

It often leads to ſenſuality, diſſipation, ſloth, pride, and diſdain.

Man is formed for mixed fortune; difficulties and dangers call forth powers, in the exerciſe of which his greateſt perfections and his greateſt enjoyments conſiſt.

Mere life is to him an opportunity to avail himſelf of the good, and likewiſe to incur the evil, of which his nature is ſuſceptible.

The proper uſe of it is good, the abuſe is evil.

The value of proſperity in general, depends on the proper uſe of it.

The proper uſe of things, is a perfection of human nature.

The deſire of perfection, therefore, well underſtood, appears to be the ſureſt guide to enjoyment, and to all the advantages of proſperity.

All our enjoyments, beſides thoſe of ſenſe, ariſe from our having ſome purſuit or affection, to which pleaſure

pleaſure is not the object, but an acceſſion. Thus the pleaſures of hunting ariſe from eagerneſs to ſeize the prey; the pleaſures of occupation ariſe from the ardour with which we purſue our object; the pleaſures of affection ariſe from the regard we have for other men; and the pleaſure of good actions ariſes from the eſteem of virtue. If pleaſure be our ſole object, we muſt forego it in all thoſe inſtances.

The meaſure of good which any one poſſeſſes, is to be eſtimated from his perſonal character, not from his circumſtances, or external means of enjoyment.

In the different denominations of good and evil, it appears that virtue and vice are of the greateſt moment.

The firſt is itſelf the greateſt advantage, the ſecureſt poſſeſſion, and that which enables men beſt to em-

ploy all other advantages and other poſſeſſions.

The ſecond is wretched in itſelf, and turns every other circumſtance into a curſe.

CHAP. III.

Of the fundamental law of Morality, and the ſubjects to which it is applicable.

SECT. I.

The Law.

THE great foundation of virtue in the human ſoul, is probity; and the greateſt good competent to man's nature, is the love of mankind.

This law may be applied to mind, and to external actions.

In its application to mind, it is a direction to the attainment of happineſs.

In its application to external actions, it is a direction to juſt and proper conduct.

SECT. II.

Of the application of the laws of Morality to Mind; or of Happineſs.

HAppineſs is the poſſeſſion of the greateſt good, or the poſſeſſion of a mind benevolent, wiſe, and courageous.

It is a diſtinction of the perſonal qualities of men, not of their ſituations.

The foundation of happineſs, is an affection determinate in its nature, but indefinite in reſpect to its object.

Among its objects God is ſupreme.

This affection being an active principle, requires, or inſpires, all the qualities which are requiſite to attain its end.

Among

Among theſe qualities wiſdom occupies the principal place.

An extenſive and juſt underſtanding leads to piety, benevolence, and candour.

Good intentions have not the correſponding effects, if not properly conducted.

Good intentions, when miſled or abuſed, end in diſguſt, or in a diſtaſte to virtue.

This diſpoſition requires courage and fortitude; for weak minds are too much occupied with their own ſafety to entertain any ſincere or vigorous affection.

It requires temperance; for men addicted to ſenſuality or diſſipation, are not capable of continued or ſerious attachments.

This affection, when ſincere and ardent, naturally occupies the mind to the excluſion of inferior pleaſures, of perſonal anxieties, and fears; and

is

is therefore a principle of temperance and fortitude.

SECT. III.

Of the degrees of Happineſs, and the actual attainments of men.

THE definitions of perfect happineſs, and of perfect virtue, are the ſame:

Univerſal benevolence, unerring wiſdom, a force and elevation of mind, which inferior pleaſures cannot ſeduce, and which blameleſs ſufferings cannot depreſs.

Men conceive perfection, but are capable only of improvement.

The conception of perfection is a light to direct their progreſs.

The object of moral philoſophy is, to aſcertain this conception.

Philoſophers cannot avoid recommending a perfection above human nature,

nature, unleſs they ſubmit to recommend defects.

The diſpoſitions of men are various, and their forces unequal: it is impoſſible to aſcertain the limits of their progreſs.

They have failed in the direction they have taken, not in the force with which every man aſpires to better himſelf.

One man improves his fortune, or advances in rank; another extends his fame: it would be eaſier to improve in the accompliſhments of a juſt and vigorous mind.

SECT.

SECT. IV.

Of Opinions productive of Miſery, or that hinder Improvement *.

IT is unhappy to lay the pretenſions of human nature ſo low as to check its exertions.

It is unhappy to entertain notions of what men actually are, ſo high, as upon trial to incur diſappointment, diſguſt, or deſpair of virtue.

It is unhappy to reſt our own choice of good qualities on the ſuppoſition that we are to meet with ſuch qualities in other men.

It is unhappy to conſider perfection as the ſtandard by which we are to cenſure others, not as the rule by which we are to conduct ourſelves.

* See Epictetus by Arrian, and Antoninus's Meditations.

It is a wretched opinion, that happineſs conſiſts in a freedom from trouble, or in having nothing to do.

In conſequence of this opinion, men complain of what might employ them agreeably.

By declining every duty, and every active engagement, they render life a burden, and they complain that it is ſo.

By preferring amuſement to buſineſs, they reject what is fitted to occupy them, and ſearch in vain for ſomething elſe to remove their languor.

It is unhappy to entertain an opinion, that any thing can amuſe us better, than the duties of our ſtation, or than that which we are in the preſent moment called upon to do.

It is an unhappy opinion, that beneficence is an effort of ſelf-denial, or that we lay our fellow-

creatures

creatures under great obligations by the kindneſs we do them.

It is an unhappy opinion, that any thing whatever is preferable to happineſs.

The vulgar, as well as the learned, have their paradoxes: They frequently prefer intereſt, fame, and power, to acknowledged happineſs.

They prefer conſideration, or the imputation of worth, to worth itſelf.

It is wretched to rely for happineſs on what we cannot command.

It is wretched to have an opinion of good in things which we might forego with indifference, or of evil in things which we might endure with patience.

It is an error to employ terms of admiration or contempt looſely, and without attention to their proper meaning.

We vulgarly ſay, that *a man* is the

the better or the worſe, when we mean only that ſomething has happened to his fortune.

Such phraſes, we ſuppoſe, may be underſtood; but, like many others of the ſame kind, they ſlur over a very abſurd apprehenſion, that confounds external circumſtances with perſonal qualities, and what does not belong to a man with what does.

SECT. V.

Of Opinions, or Circumſtances, productive of Happineſs, or that lead to Improvement.

IT is happy to value perſonal qualities above every other conſideration; and to ſtate perfection as a guide to ourſelves, not as a rule by which to cenſure others.

It is happy to rely only on what is in our own power; to value the

engagements of a worthy and ſtrenuous mind as our ſole good, and the debaſements of a malicious and cowardly nature as our ſole evil.

It is happy to have continually in view, that we are members of ſociety, and of the community of mankind; that we are inſtruments in the hand of God for the good of his creatures; that if we are ill members of ſociety, or unwilling inſtruments in the hand of God, we do our utmoſt to counteract our nature, to quit our ſtation, and to undo ourſelves.

I am in the ſtation which God has aſſigned me, ſays Epictetus. With this reflection, a man may be happy in every ſtation; without it, he cannot be happy in any. Is not the appointment of God ſufficient to outweigh every other conſideration? This rendered the condition of a ſlave agreeable to Epictetus, and that of a monarch to Antoninus.

nus. This conſideration renders any ſituation agreeable to a rational nature, which delights not in partial intereſts, but in univerſal good.

Whoever poſſeſſes good perſonal qualities, holds them in dependence only upon God: but the circumſtances in which men are placed; the policy or government of their country; their education, knowledge, and habits, — have great influence in forming their characters.

SECT. VI.

Application of the Laws of Morality to External Actions in general.

EXternal actions, conſidered apart from affection or intention of mind, are mere movements of the body, conſtituting neither

enjoyment nor ſuffering, good nor evil.

But affection or intention being good or evil, it follows, that the ſame law of morality which requires or forbids the affection, muſt likewiſe require or forbid the external conduct that is ſuppoſed to reſult from it.

The law which requires the love of mankind, ſupported by wiſdom, courage, and temperance, likewiſe requires every external action that is ſuited to this affection, and to theſe qualifications.

The law that prohibits malice, remiſſneſs, cowardice, or intemperance, prohibits likewiſe every external effect of theſe characters.

SECT.

SECT. VII.

Diverſity of Opinions concerning the Morality of External Actions.

THE difference of moral good and evil cannot be aſcertained in the deſcription of mere external actions.

Actions materially the ſame, are in one caſe morally good, in another caſe morally evil. Men are not univerſally agreed concerning the actions which they require or prohibit in any caſe whatever. What is reckoned innocent or praiſe-worthy in one country, is reckoned a heinous offence in another. The definitions of theft, murder, or treaſon, are different in the laws of different countries.

The terms expreſſing the external duties of men in one language,

have not a preciſe equivalent in another.

SECT. VIII.

Cauſes of this Diverſity.

THis diverſity does not ariſe from any difference of opinion, or experience, concerning any of the characteriſtics of human nature.

All mankind are agreed, that benevolence and courage are good, that malice and cowardice are evil; and if it ſhould be alledged, that any number of men are of contrary opinions, yet every perſon may, from his own experience, correct the error.

This diverſity proceeds from three different cauſes:

1. The difference of the caſe.
2. The different choice of the parties

ties who are affected by the external actions.

3. The different interpretation of actions.

SECT. IX.

Difference of the Caſe.

CAſes change with the perſon, and with circumſtances.

An action materially the ſame is permitted to one perſon, and forbidden to another: It is the duty of a magiſtrate to put the guilty to death; this would be criminal in a private party.

A perſon may kill in his own defence, but not in different circumſtances.

Caſes are varied indefinitely; and rules of action being general, cannot provide for all the peculiarities of any caſe whatever.

The

The only direction on which men can rely in every particular caſe, is the diſcernment of a wiſe and benevolent mind.

SECT. X.

Difference of Choice.

THE different choice of parties intereſted in the effect of any action, ariſes from opinion.

One perſon believes that to be good for himſelf, which another perſon believes to be evil. In their requiſition of beneficent actions, they differ accordingly: One man requires as a favour what another would reſent as an injury.

There is no external effect of which men may not entertain contradictory opinions, even of life and of death.

The father among the Eſquimaux requires, at a certain age, that his own

own children ſhould put him to death.

The widow in Europe deſires to have a good ſettlement made by her deceaſed huſband: in India, ſhe deſires to be burnt on his funeral pile.

In every caſe, actions are required as the effects or expreſſions of kindneſs and regard.

SECT. XI.

Difference of Interpretation.

IN many inſtances, external actions are, in their own nature, indifferent, or of no effect; but are the eſtabliſhed ſigns and expreſſions of neglect or attention, of good or of ill will, or of ſome affection or diſpoſition.

Such are many religious rites in every country, and many ceremonies obſerved in common life. Even

ven actions of more conſequence, are frequently more regarded on account of their meaning, than on account of any other effect.

So far as actions are mere expreſſions, the choice of them, like that of words, is perfectly arbitrary; and nations may differ from each other in their external obſervances, as they do in their ſpeech, without any inconvenience whatever. One nation commends what another condemns, merely becauſe they interpret the ſame, or a like action, differently.

The diverſities of manners ariſing from difference of choice or interpretation, render it difficult to judge of the merits or perſonal qualities of men, in ages or nations remote from each other.

The vulgar are able to interpret only the manners of their own condition and country; they commonly

ly miſtake thoſe of a different rank, or of foreigners.

There is in fact nothing in external manners which opinion may not render agreeable or diſagreeable; and the opinion of one country is not the rule or ſtandard by which to judge of the manners of another.

The definitions of crimes vary in the law of different countries; becauſe different overt acts are ſpecified as the marks of guilt.

Terms of praiſe or blame, have not their preciſe equivalent in different languages; becauſe men combine variouſly, under different terms, the circumſtances from which they infer merit or demerit.

This is conſiſtent with a perfect agreement of opinion concerning any of thoſe circumſtances apart.

SECT.

SECT. XII.

Fundamental Laws of External Action.

1. IN matters indifferent, we ought to obſerve the manners of our country, as we ſpeak its language, or wear its dreſs.

2. In matters of importance, we ought to chuſe what is for the good of mankind, in oppoſition to opinion and cuſtom.

Thus we ought to do whatever tends to promote virtue, to prevent corruption, and to ſecure the rights of mankind; and to avoid whatever tends to corrupt or to ſeduce, and whatever tends to make way for oppreſſion.

When the habits or affections of men change for the better or the worſe, they improve or degenerate.

When their cuſtoms change from what is innocent, or beneficial to mankind,

mankind, to what is pernicious, they are ſaid not to undergo a change of manners merely, but to be depraved.

If they ſhould be ignorant of the tendency of their own pernicious cuſtoms and manners, even this ignorance would be an article of depravity.

SECT. XIII.

Of the different Sanctions under which External Actions are required or prohibited.

THE ſanction of any law, is the good or ill annexed to the obſervance, or to the neglect, of it.

The general ſanction of moral law is, that the obſervance of it is happineſs, and the neglect miſery.

This ſanction is variouſly modified in the caſe of external action,

by considerations of force, or of propriety. Hence,

1. The sanction of compulsory law.

2. The sanction of duty.

The sanctions of compulsory law are, any forcible means employed by men to vindicate their own rights, or those of others.

The sanctions of duty are, any considerations that determine men, from choice, to act properly.

SECT. XIV.

Of parties to whom the Laws of Morality refer.

THE laws of morality may be referred to the conduct of single parties, or to that of collective bodies.

The conduct of single parties is required, or prohibited, under the special

ſpecial ſanctions of compulſory law, or under the ſanctions of duty.

Conduct required or prohibited under the ſanction of compulſory law, is the ſubject of juriſprudence.

Conduct required or prohibited under the ſanction of duty, is the ſubject of caſuiſtry.

Conduct prohibited or required of men in what affects the ſtate and form of their community, is the ſubject of politics.

Communities ſtated in their relation to each other, are to be conſidered as ſingle parties.

INSTITUTES OF MORAL PHILOSOPHY.

PART V.

Of Jurisprudence.

CHAP. I.

Of the Foundations of Compulsory Law.

THE first application of the fundamental law of morality to the actions of men, is prohibitory, and forbids the commission of wrongs.

Every person being intitled to defend himself and his fellow-creatures,

tures, wrongs may be repelled by force; and the prohibition of wrongs is the firſt compulſory law of nature.

Any article in the ſtate of a man which may be maintained by force or otherwiſe, is termed *his right*.

Juriſprudence conſiſts of two parts.

The firſt relates to the rights; the ſecond, to the defences of men.

CHAP. II.

Of the Rights of Men in general.

A Right is the relation of a perſon to a thing, in which no alteration ought to be made without his own conſent.

Things are the conſtituents of the perſon, or the conſtituents of his ſtate.

The regard to rights is comprehended in the law of ſelf-preſervation, combined with the law of ſociety; or, in other words, it ariſes from our diſpoſition to preſerve ourſelves, and our fellow-creatures.

Wrong is a violation of right. The ſentiment ariſing from a ſenſe of wrong in our own caſe is reſentment; in that of others, is indignation.

No one can have a right to what is not poſſible, or not real.

The right of one man is excluſive of the right of another.

CHAP.

CHAP. III.

The Law of Defence in general.

A Right may be maintained by any means that are effectual and neceſſary.

This law of defence includes three clauſes:

1. That a wrong apprehended may be prevented.

2. That a wrong offered may be repelled.

3. That a damage done ſhould be repaired.

CHAP.

CHAP. IV.

Difference of Rights.

SECT. I.

General Diviſion.

RIghts may be conſidered in reſpect to their ſubject, or in reſpect to their ſource.

In the firſt reſpect, they are ſaid to be perſonal, or real.

In the ſecond, they are ſaid to be original, or adventitious.

SECT. II.

Of Rights Perſonal.

PErſonal rights ſubſiſt in the perſon, and are the conſtituents of his nature.

Perſons

Perſons are ſaid to be natural or artificial.

Perſons natural are ſingle men.

Perſons artificial are corporations or ſtates.

The rights of natural perſons ſubſiſt in the limbs and members of the body, in the faculties and talents of the mind, and the uſes of both.

The rights of artificial perſons ſubſiſt in their conſtituent members, their forms, and their laws.

SECT. III.

Of Rights Real.

REal rights ſubſiſt in things of which any perſon may have the excluſive uſe.

Real rights may be referred to three principal heads:

Poſſeſſion, Property, and Command.

Poſſeſſion

Poſſeſſion conſtitutes right only while a thing is in actual uſe.

Property conſtitutes a continual right.

No one can have a right of poſſeſſion to the property of another.

Command is a right to the ſervices or obedience of other men.

SECT. IV.

Of Original Rights.

ORiginal rights are the univerſal appurtenances of man's nature, and coeval with his being.

The perſonal rights of men are original.

The right of the parent to command the infant child is original; but in every other inſtance, no man has an original right to force the obedience of another, except in obliging him to abſtain or deſiſt from wrongs.

SECT.

SECT. V.

Of Adventitious Rights.

ADventitious rights are ſuch as accrue variouſly to men in the courſe of human life.

Original rights are recogniſed on being mentioned.

Adventitious rights are matter of diſcuſſion, and recogniſed only ſo far as they are proved.

In treating of adventitious rights, we muſt not only enumerate their ſubjects, but likewiſe the means by which they may be acquired.

Poſſeſſion, property, and command, are adventitious rights.

The adventitious diſtinctions in ſociety are founded, for the moſt part, on property and command.

CHAP.

CHAP. V.

Of the Laws of Acquisition in general.

NO right can be acquired by injustice; or, in other words, by any deed pernicious to mankind.

The means of acquiring any right may be referred to four principal heads:

Occupancy, Labour, Convention, and Forfeiture.

CHAP.

CHAP. VI.

Law of Occupancy.

OCcupancy is ſuch a relation of a perſon to a thing, that no other can uſe the ſame thing, without detriment or moleſtation to the occupier.

In this manner, a perſon may occupy the ground on which he lies, the water he drinks, the air he breathes, the light that ſhines upon him, the tract of the ſea on which he ſails; but no one can occupy the earth, the paſſing ſtream, the atmoſphere, or the ocean.

CHAP. VII.

The Law of Acquiſition by Labour.

LAbour is any effort by which a perſon may, for his own uſe, fabricate, procure, or improve, any unappropriated ſubject.

The right acquired to the fruits of labour, is implied in the original right all men have to the uſe of their talents or faculties.

Prior to convention, men do not acquire rights by the obſervance of any form or ceremony that is of no effect; for the right acquired is only to the uſe of what is produced.

Mere acceſſion, or what is not the effect of any care and labour, if there be no convention to the contrary, falls to the firſt occupier.

The increaſe of a man's flocks or herds, being the fruits of his care, is his property; but the acceſſion of

of new lands, or iſlands, contiguous to his, falls to the firſt occupier.

A man, by labouring on another's property, cannot annul the other's right; on the contrary, the fruit of his labour, if it cannot be removed without damage to the principal ſubject, falls to the proprietor of that ſubject.

But a perſon who happens *bona fide* to employ his labour on the ſubject of another, may remove or enjoy the fruit of his labour, if this can be done without detriment or inconveniency to the other.

Civil conventions accommodate the effects of acceſſion or of labour to the conveniency of parties, and to the policy of particular ſtates.

CHAP. VIII.

The Law of Acquiſition by Contract.

SECT. I.

The Obligations of Contract.

A Contract is the engagement of parties to perform what is ſuppoſed to be in their power.

Engagements are made by promiſes.

Men by nature rely on the promiſes of others.

The object of a promiſe or engagement becomes part of a man's ſtate; breach of faith is an injury, and he is intitled to repel it by force.

Here the compulſory law, which in its original form is prohibitory, or negative, becomes poſitive, requiring,

quiring, that every juſt engagement ſhould be fulfilled.

SECT. II.

Laws of Contract in general.

1. THE ſource of conventional obligation, is the right of one party to exact a performance upon which another has made him rely.

2. Contracts, therefore, create right only to what depends on the will of contracting parties.

3. To conſtitute a contract, mutual promiſes, or a promiſe and acceptance, are neceſſary between parties, acting freely, and poſſeſſed of the uſe of their reaſon.

Although one party has promiſed, if the other has not accepted, the laſt cannot pretend to have an expectation raiſed.

But mutual promiſe implies acceptance.

Men who are known not to act voluntarily, or rationally, cannot raiſe any reaſonable expectation.

4. A party may ſtipulate in perſon, or by his agent, or meſſenger, in words, actions, or ſigns, that are underſtood.

5. A perſon is bound by the ſtipulations of a ſervant, or meſſenger, to whom he has given credentials, or whom he has authoriſed by repeated acknowledgements of his truſt.

6. Words are to be interpreted in their moſt ordinary ſenſe, or in the ſenſe in which it appears from other ſigns that they were intended to be uſed.

7. An action of any kind, performed with a view to raiſe expectation, or by which it is known that expectations are naturally raiſed,

ſed, is ſufficient to conſtitute a contract.

8. Cuſtom is a reaſonable ground of expectation; and therefore is binding on all parties.

Great part of the civil conventions of men are conſtituted by the received cuſtoms of their country.

A practice introduced by force, may become a legal cuſtom: for being ſuch as men are reconcileable to, after they are reconciled, and continue to obſerve it voluntarily, it becomes a matter of convention.

But practices, or ſufferings, to which men are not reconcileable, and with which they are made to comply by force, can never, on the foot of conſuetude, be conſidered as matter of convention, but uſurpation.

SECT.

SECT. III.

Contracts of different denominations.

CONtracts may be diſtinguiſhed as abſolute, or conditional; and as ſingle, or reciprocal.

Abſolute contracts are conſtituted by a ſimple promiſe and acceptance.

Conditional contracts expreſs promiſe and acceptance under a condition.

Single contracts conſiſt in the promiſe of one party, and acceptance of the other.

Here one party is ſtipulating, the other accepting.

Reciprocal contracts conſiſt of mutual promiſes, and mutual acceptance.

Here each party is both ſtipulating and accepting.

SECT.

SECT. IV.

Of the Exceptions to Contracts in general.

ANY promiſe given is rendered void, by the exceptions of force, fraud, injuſtice, or impoſſibility.

First Exception.

Force is conſtituted by actual violence, or menaces, employed by the accepting party.

This exception is valid,

1. Becauſe a perſon extorting a promiſe by force, cannot have a reaſonable expectation of its performance being intended.

2. Becauſe the party offering force commits an injury; and inſtead of acquiring a right, may be prevented,

prevented, repelled, or obliged to make reparation.

N. B. This exception does not extend to the caſe of contracts entered into with one party, on account of the violence offered by another.

Nor is this exception admitted by the practice of nations in the caſe of any ſurrender at war, or military capitulation.

Second Exception.

Fraud is conſtituted by the deceit which a party employs to obtain a promiſe.

This exception is valid,

1. Becauſe a party who is known to be deceived concerning what he promiſes, cannot raiſe an expectation that he will perform when undeceived.

2. Becauſe deceit, or impoſition, is

is an injury, and gives a title to reparation.

N. B. This exception does not invalidate the promiſe made to an innocent party in conſequence of the miſinformation of another.

Nor does it invalidate any military capitulation, though obtained by ſtratagem.

Third Exception.

Injuſtice conſiſts in the wrong which a third party would ſuffer from the performance of a contract.

There are four different caſes in which this exception may be offered:

Caſe 1. When neither of the contracting parties, at the time of ſtipulating, was aware of the wrong.

In this caſe the contract is ſimply void.

Caſe 2. When only the party accepting was aware of the wrong.

In

In this caſe, the contract is void; and the party accepting has committed an injury againſt the party ſtipulating, as well as againſt the third party, who, if the contract had taken effect, was likely to have ſuffered.

Caſe 3. When only the party ſtipulating was aware of the wrong.

If he ſtipulated with intention to perform, he is injurious to the third party concerned.

If he ſtipulated with intention to plead the exception, he is injurious to the party accepting.

Caſe 4. When both parties were aware of the injuſtice.

Both are injurious to the third party concerned.

Fourth Exception.

Impoſſibility extends to every caſe that cannot, in the nature of things, take place; to every article that exceeds

ceeds the power, or that does not depend on the will, of the parties.

This exception, like the former, may be offered in four caſes.

Caſe 1. When neither contracting party was aware of the impoſſibility; —

The contract is ſimply void.

Caſe 2. When only the party accepting was aware of the impoſſibility.

This conduct is either irrational, or may be injurious to the ſtipulating party, by drawing him into ſnares and fruitleſs attempts.

Caſe 3. When only the party ſtipulating was aware of the impoſſibility.

It is injurious to the accepting party, by creating vain expectations.

The 4th caſe, Suppoſing both parties aware of the impoſſibility, is altogether irrational and abſurd.

SECT. V.

Exceptions peculiar to Conditional and Reciprocal Contracts.

ALL conditional contracts are void, if the condition has failed, or is found to be unjuſt or impoſſible.

The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpoſe, as they do in games of ſkill and dexterity.

Or they may not be allowed to interpoſe, as in games of chance.

If the condition depend on the will of the ſtipulating party, he becomes bound to perform one action only in conſequence of having performed another.

If

If it depend on the will of the accepting party, he acquires a right only in case of having performed his condition.

In mutual contracts, a party failing on his part, has no title to exact performance on the other part.

CHAP. IX.

Of the Law of Acquiſition by Forfeiture.

WHoever has done an injury, is bound to repair it. In this manner, the injurious perſon may have forfeited to another what was formerly his own right.

No man can forfeit by actions caſual and involuntary. Such actions, when prejudicial to others, are misfortunes, not injuries.

CHAP.

CHAP. X.

Of the Law of Acquiſition, as applicable to particular rights.

SECT. I.

Of Poſſeſſion.

THis is acquired by occupancy alone.

SECT. II.

Of Property.

THis is acquired, to any ſubject formerly unappropriated, by labour alone.

The effect of preſcription in civil ſociety, reſults from convention, not from occupancy.

Property may be transferred by convention or forfeiture.

A convention transferring property, is a conveyance.

A conveyance conſiſts of conſent and delivery.

A party who has obtained conſent without delivery, may defend, or occupy, the ſubject, in right of the former proprietor, not in his own.

Hence it is argued, that the mere conſent of a party deceaſed, without delivery, cannot convey property; becauſe the party deceaſed having no right, the ſubject falls to the firſt occupier.

The force of laſt wills is an effect of convention among the living, not of right ſurviving the dead.

SECT.

SECT. III.

Of the Right to Command, or Service.

THE right to command is acquired by contract or forfeiture.

The contract between the maſter and hired ſervant is a reciprocal contract.

The terms are ſuch as they mutually ſtipulate, or ſuch as known cuſtoms eſtabliſh.

The civil contract or convention between the magiſtrate and ſubject, or ſovereign and people, is likewiſe reciprocal.

The terms are ſuch as the parties ſtipulate in expreſs charters and ſtatutes, or ſuch as may be aſcertained from known cuſtoms.

The ſocial compact, from which, according to ſome writers, the mutual duties of men in ſociety are to be

be deduced, is a mere fiction in theory, reſembling the fiction in law, by which a plea which ariſes from one ſource, is ſuſtained as coming from another.

Thus mutual pleas of guardian and ward, which aroſe from equity, were ſuſtained in the Roman law as ariſing from contract.

There never was in reality any contract prior to the eſtabliſhment of ſociety. Cuſtoms, charters, and ſtatutes, which conſtitute or expreſs the civil conventions of men, are all poſterior to the eſtabliſhment of ſociety.

Fictions of law may be convenient in arranging civil actions, but are of no uſe in explaining the laws of nature; for by the law of nature, every right, and every obligation, is admitted only where it is real, and can receive no confirmation from any fiction whatever.

The original rights of men, founded

founded in humanity, and in the title of every perſon to defend himſelf, are ſo far from gaining force by being referred to a ſuppoſed convention, that they are actually weakened.

Men are equally ſenſible of their obligation to abſtain from wrong of any kind, as from breach of faith. The laſt is actually comprehended in the firſt, or is founded upon it.

A right to command is ſometimes acquired by forfeiture, when a perſon who has done a wrong, becomes bound to repair it by his ſervices.

No contract or forfeiture can deprive a man of all his rights, or render him the property of another.

No one is born a ſlave; becauſe every one is born with all his original rights.

No one can become a ſlave; becauſe no one, from being a perſon, can,

can, in the language of the Roman law, become a thing, or ſubject of property.

The ſuppoſed property of the maſter in the ſlave, therefore, is matter of uſurpation, not of right.

CHAP.

CHAP. XI.

Of the Law of Defence.

SECT. I.

Of the Means of Defence in general.

BY the law of defence, a perſon may maintain his right againſt any other perſon who wrongs, or is likely to wrong him, by any means that are neceſſary for that purpoſe.

The means of defence may be referred to three principal heads:

Perſuaſion, Artifice, and Force.

The law of defence does not authoriſe the uſe of any means that are unneceſſarily hurtful to the party againſt whom they are employed.

A man is intitled only to preſerve

ſerve his own right: whatever harm he does beyond what is neceſſary for this purpoſe, is an injury.

The law of defence may be applied to perſons in three different caſes:

1. That of ſingle parties ſuppoſed ſtrangers, and unconnected.
2. That of fellow-citizens.
3. That of nations.

SECT. II.

The caſe of Single Parties Strangers to each other, and unconnected.

THis caſe is commonly treated of under the title of the ſtate of nature; and in this ſtate every man is ſuppoſed unconnected with all men.

It is abſurd to intitle that the ſtate of nature to which men are not naturally diſpoſed, and in which

which they moſt certainly never were known.

It is a mere ſuppoſition, under which certain applications of the law of nature may be abſtractly conſidered.

Writers have not recollected, that it was ſufficient for the purpoſe of their reaſonings, to ſuppoſe any two or more parties unconnected with each other, though not unconnected with all mankind.

Such parties are poſſeſſed of their original rights; but having no convention, can have none of thoſe rights, and none of thoſe obligations, which ariſe from convention alone.

If either party ſhall commit an injury againſt the other, the injured is intitled to his defence.

It is vain to aſk, who is to judge between them? for all reference to judges is excluded by the ſuppoſition.

They must act and judge for themselves; and where persuasion and artifice have failed, or are not likely to succeed, may employ force.

SECT. III.

The case of Fellow-Citizens.

FEllow-citizens are connected by civil and political conventions; on which are founded a variety of adventitious obligations and rights.

The obligations of fellow-citizens are either those of fellow-subjects, or of magistrate and subject.

Fellow-subjects have stipulated, to refer their differences to the judgement of courts, and to employ, in their defence, the power of the magistrate.

This law admits of the following exceptions:

1. Where the judgement of courts cannot be had, nor the power of the magistrate

magiſtrate interpoſed, to prevent an injury.

2. Where the relief by civil ſuit cannot be adequate to the injury apprehended.

Judges have ſtipulated to decide according to law and juſtice.

Magiſtrates have ſtipulated to defend the rights of the ſubject.

The magiſtrate, as acting in defence of the ſtate, and of its ſubjects, is intitled to repreſs crimes by reſtraints and puniſhments.

He is directed, in the application of reſtraints and puniſhments, by the law of nature, and of convention.

The law of nature, where there is no convention to the contrary, limits the power of the magiſtrate to what is neceſſary to defend the innocent. All reſtraints or ſeverities employed beyond theſe limits, are unlawful.

It is not always expedient in civil

ſociety, to carry puniſhment to the utmoſt rigour even of natural law.

The laws of convention are various in different ſtates; in ſome nations permitting arbitrary impriſonment, unlimited ſeverities, and tortures, for every crime, at the diſcretion of the magiſtrate.

Powers of this ſort are frequently uſurpations on the part of the magiſtrate, not his rights.

The rights of the ſubject are in danger, when the magiſtrate either adopts a rule that is unjuſt, or when his deciſions are irregular and arbitrary.

SECT.

SECT. IV.

The caſe of Nations.

AMong nations, the act of the ſovereign, or of thoſe employed by the ſovereign, is conſidered as the act of the nation.

The act of any private perſon is not the act of the ſtate, except ſo far as, in his action, he is protected or acknowledged by the ſtate.

A nation may receive an injury in the perſon of any of its members.

A nation injured, may make repriſals on the perſons and effects of any, or all, the ſubjects of the offending nation.

Nations who maintain controverted rights by artifice, or by force, are ſaid to be in a ſtate of war.

War is juſt only on the ſuppo-

ſition of injuries apprehended, offered, or perpetrated.

Remonſtrances and declarations, where-ever they can be ſafely employed, ſhould precede hoſtilities.

The immediate object of war is victory.

The laws of war previous to victory are,

1. Such hoſtilities only are lawful as are neceſſary to obtain the victory.

2. Where-ever it is ſafe to grant an enemy quarter, it is not lawful to refuſe it.

3. Breach of faith is exploded in the practice of nations at war, and would be ruinous to mankind.

4. Any party may aſſiſt the injured; but whoever aſſiſts the injurious, may be treated as an enemy.

5. The perſon or effects of an enemy, where-ever found, may be ſeized,

ſeized, if this can be done without detriment to any innocent party.

6. The effects of a friend going to an enemy, if they would enable him better to carry on the war, may be ſeized.

7. Captives may be detained while the war continues, and until ſatisfaction and ſecurity be obtained.

Laws of war after victory:

1. The conqueror may avail himſelf of his power to preſerve his rights, and obtain reparation of a wrong that has been done him.

2. Succeſs in war does not conſtitute a right; but damages and ſuffering incurred in war, give a title to indemnification.

3. The conqueror may take ſuch precautions, by diſabling his enemy, as give him a proper degree of ſecurity for the future.

4. Nations do not acquire a property in the perſons of their captives,

tives, as they do in effects lawfully ſeized.

SECT. V.

Concluſion of Juriſprudence.

BY the maxims of compulſory law, a perſon may, on every occaſion, maintain his right: but from conſiderations of duty, he is, on many occaſions, obliged to forego it.

A perſon is more concerned to maintain and to exerciſe the affections of a beneficent mind, than he is to preſerve his condition in any other reſpect.

The conventional laws of ſociety, in ſome inſtances, as well as the law of humanity, admit, that the extreme neceſſity of one party may ſuperſede the right of another.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART VI.
Of Casuistry.

CHAP. I.
Of the Sanctions of Duty in general.

A Law of duty is an expreſſion of what a perſon ought to do from choice; and in doing which, he is ſaid to have merit; or in doing the contrary, to have demerit.

The firſt application of the fundamental law of morality is prohibitory, forbidding the commiſſion of wrongs.

The

The ſecond is poſitive, requiring every external effect of virtue, or of good-will to mankind.

But acts of good-will or beneficence cannot be extorted by force.

The object of compulſory law, is the preſervation of parties expoſed to wrongs; who, in defending themſelves, may, even by force, oblige others to deſiſt from injuries.

The object of morality, in what relates to the duties of men, is the virtue of thoſe who act.

Compulſion would alienate the affections of men.

Favours extorted by force would be robberies.

Whoever employs deception or force, except in his own defence, or in that of his fellow-creatures, commits an injury.

The ſanctions of duty, are thoſe of religion, of public repute, and of conſcience.

CHAP.

CHAP. II.

Of the Sanction of Religion.

RELIGION is the ſentiment of the mind relating to God.

The ſanction of religion is its tendency to influence mens conduct.

This tendency is of two kinds.

The firſt is, to make men love wiſdom and beneficence, as being the characteriſtics of the ſupreme being, whom they adore; and to make them love their ſituations, and their duties, as being appointed by providence.

The ſecond is, to make them hope for rewards, and to fear puniſhments.

The religious doctrine of rewards and puniſhments, is a ſpecies of compulſory law, extending to all the

the thoughts and inclinations, as well as the actions, of men.

This law, in all its extent, can be ſafely applied by every perſon only to himſelf.

When magiſtrates think themſelves armed with the ſanction of religion, and intitled to reſtrain thoughts as well as actions, they attempt what is placed beyond the reach of their power.

Superſtition, or the abuſe of religion, has been accompanied with very fatal effects:

With a miſapplication of moral eſteem, and the ſubſtitution of frivolous rites for moral duties; with cruel animoſities of party, and a falſe apprehenſion of ſanctity in any acts of injuſtice and horror that proceed from a ſuppoſed religious zeal.

CHAP.

CHAP. III.

The Sanctions of Public Repute.

THeſe ſanctions include the influence of prevailing opinions and examples, together with the commendations and cenſures men beſtow on the actions that pleaſe or offend them.

The influence of prevailing opinions and examples, ariſes from the ſocial nature of man; and is one condition by which men are fitted to act in companies and ſocieties.

The tendency of this influence is good or evil, according to the nature of the opinions or examples that prevail.

Nothing diſtinguiſhes men of a happy nature more, than that force with which they are ſometimes able to correct falſe opinions, and with

which they are always able to reſiſt their contagion.

It is part in the ſocial nature of man, to deſire praiſe, and to ſhun blame.

This puts it in the power of every perſon to reward actions agreeable, and to puniſh actions diſagreeable, to himſelf: but as commendation and cenſure are frequently ill diſtributed, it is a great weakneſs to be guided chiefly by ſuch conſiderations.

CHAP.

CHAP. IV.

Of the Sanction of Conſcience.

THis ſanction is conſtituted by the ſatisfaction men have in doing right, and the ſhame or remorſe which ariſes from having done wrong.

Men being deſirous of perſonal excellencies, and averſe to perſonal defects, have ſatisfaction in actions that tend to the purpoſes of virtue.

They feel remorſe or ſhame for actions that tend to the purpoſes of vice.

The ſentiments of conſcience are frequently blended with thoſe of ſuperſtition or cuſtom, and, like them, are ſubject to error.

It is the object of caſuiſtry to prevent, or to correct, ſuch errors, by pointing out the real tendencies of virtue and of vice in external actions.

CHAP. V.

Of the tendency of Virtue in External Actions *.

SECT. I.

Of the different branches of Virtue.

IT has been obſerved, that a fool can neither come into company, nor go out of it, can neither ſit, ſtand, nor walk, like a man of ſenſe †. It may be ſaid likewiſe, that a knave can do nothing like a man of probity.

The law of external action is ſo eſſential to morality, that men very frequently confine the whole of morality to this law.

* Cicero de officiis, lib. 1.

† Maxims of La Bruyere.

But

But virtue is in reality a qualification of the mind; although the term equivalent to *virtue*, in every language, implies all the required effects and appearances of this qualification.

Its conſtituents are, Diſpoſition, Skill, Application, and Force.

Correſponding to the number of theſe conſtituents, virtue has been divided into four capital branches, called the *Cardinal Virtues*.

Theſe are, *Juſtice* or *Probity*, *Prudence*, *Temperance*, and *Fortitude* *.

Juſtice, or *Probity*, is the regard ſhown to the rights and happineſs of mankind.

Thoſe effects of juſtice which mere innocence implies, are requi-

* This diviſion is ſo natural, that it has always preſented itſelf when we have treated of the felicity or excellence competent to man's nature.

red under the ſanction of compulſory law.

Thoſe that conſtitute beneficence, are required under the ſanctions of duty only.

Prudence is that diſcernment by which men diſtinguiſh the value of ends, and the fitneſs of means to obtain them.

Without this qualification, men are not fitted to act with any meaſure of ſteadineſs, conſiſtency, or good effect.

Temperance is abſtinence from inferior pleaſures, or amuſements, that miſlead our purſuits.

No one can apply himſelf effectually to any worthy purpoſe, who is liable to the interruption of mean pleaſures or amuſements, that occupy an improper part of his time, that ſtifle his affections, or impair his talents.

The maxim of temperance is, That a perſon having once aſcertained

tained what his beſt and happieſt engagements are, ſhould count every moment loſt, that, without neceſſity, is otherwiſe employed.

Fortitude is the power to withſtand oppoſition, difficulty, and danger.

All the good qualifications of men have a reference to ſome effect to be produced, and to ſome difficulty that is to be overcome. Hence diſpoſitions and capacities of any ſort are of no avail, without reſolution, and force of mind.

SECT. II.

Of Duties referred to Probity or Juſtice.

DUties referred to probity, are either private or public.

THE private duties are, *Innocence*, *Candour*, *Piety*, *Friendſhip*, *Gratitude*,

titude, *Liberality*, *Charity*, *Civility*, and *Politeneſs*.

Innocence has been obſerved to be the object of compulſory law, and is the moſt indiſpenſable characteriſtic of probity.

It implies, beſide other effects, Veracity and Faithfulneſs: the firſt oppoſed to deceit; the ſecond, to perfidy.

Candour is the juſt allowance given to the pretenſions or merits of other men, in oppoſition to prejudice, or to the ſuggeſtions of intereſt.

Piety is the exerciſe of veneration and love; firſt, towards God; next, towards thoſe who by nature or choice are proper objects of our reſpect and affection.

The expreſſions of piety to God are either fixed or arbitrary.

Its fixed expreſſions are acts of beneficence, which concur with the providence

providence of God in promoting the good of his creatures.

Its arbitrary expreſſions are the different rites eſtabliſhed in different countries.

Friendſhip is the beneficence of private parties, proceeding from motives of particular eſteem and attachment.

This includes the reciprocal duties of parent and child, of huſband and wife, and of all other private relations.

The duties of the parent are, to maintain, to protect, to educate, his child; and, as far as he is able, to eſtabliſh and to ſecure his ſtate or condition.

The duties of the child are, obedience, deference, and gratitude.

Many of the duties of huſband and wife are conventional; and, as ſuch, are matter of ſtrict law; but the obſervance of them muſt proceed from the heart.

Conſanguinity

Conſanguinity is a natural tie. The fortunes of men are commonly involved in thoſe of their family; and relations are, on account of this connection, among the firſt or neareſt objects of beneficence.

Gratitude is the return made for favours received.

Men of probity are neither ungrateful, nor jealous of ingratitude in others.

To require a baſe action under the title of gratitude, is to forfeit the title of benefactor.

The returns due from the grateful, cannot be aſcertained by any preciſe meaſure, nor can they be exacted by force.

The intention of the benefactor is more to be regarded, than the value of his benefit.

Were it eſtabliſhed, that returns could be exacted by force, it would follow, that benefits could not be diſtinguiſhed from fees, nor the effects

fects of gratitude from thoſe of conſtraint.

The ingratitude of mankind is ſometimes alledged as an excuſe for neglecting good offices; but it is the buſineſs of a man to perform his own part, not to anſwer for the returns which others may, or may not, be diſpoſed to make.

Liberality is the free communication of what is ours, to oblige others.

Charity is the free communication of what is ours, to relieve the diſtreſſed.

Undiſtinguiſhing charity is pernicious in trading nations.

It is a wiſe maxim in trading nations, That no perſon able to earn his bread ſhould be maintained gratuitouſly.

But charity to thoſe who have no bread, and are unable to earn any, is a duty of the ſtrongeſt obligation, and-

and a very important object of public concern.

Civility is a guarded behaviour in the ordinary intercourſe of ſociety, to avoid giving offence.

Politeneſs is a behaviour intended to pleaſe, or to oblige.

Civility and politeneſs are comprehended in the general character of good breeding.

To be well bred, a man muſt poſſeſs diſcernment, candour, and good will; at leaſt a ſincere averſion to offend. The effects of affectation or deſign are eaſily diſtinguiſhed.

Ill-bred men ſometimes affect great politeneſs, but they ſhock and mortify thoſe they pretend to oblige.

Flattery, exceſſive or inſincere profeſſions, are vicious.

The ſentiments of the heart ſometimes evaporate in words; and great profeſſions are, even without any intention

intention to deceive, put in place of benefits.

THE public duties of probity are, *Allegiance* on the part of the ſubject, *Protection* on the part of the magiſtrate, and *Public Spirit* in all parties.

The *Allegianee* of the ſubject, is the fidelity, deference, and ſubmiſſion, he owes to the magiſtrate.

The *Protection* due from the magiſtrate, is the interpoſition of power to preſerve the peace, and to ſecure the ſubject in the poſſeſſion of all his rights.

The *Public Spirit* due from every member of any community is,

1. A faithful diſcharge of any office intruſted for the public good.

2. A continual preference of public ſafety, and public good, to ſeparate intereſts, or partial conſiderations.

SECT. III.

Duties referred to Prudence.

IT is the object of prudence, to direct a man in what he is to wiſh for himſelf, for his friend, for his country, and for mankind.

In this ſenſe, prudence is the guide or directory in every duty: but in its more limited acceptation, it refers more particularly to the duties which affect a man's ſtate or condition.

Theſe duties may be referred to the following heads: *Decency*, *Propriety*, *Modeſty*, *OEconomy*, *Deciſion*, and *Caution*.

Decency is the agreeableneſs of a perſon's appearance and carriage to the ſenſe and opinion of other men.

The rules of decency are prohibitory, and forbid whatever would offend,

offend, in nudity, filth, or obſcenity.

Propriety is the ſuitableneſs of a perſon's behaviour to his nature, his age, his ſtation, and rank.

There is in all the external effects of virtue, as being ſuitable to man's nature, a propriety that may be conſidered apart from their other recommendations.

Diffidence, and a cautious approach to the manners and pretenſions of manhood, are proper to youth.

Reſolution is proper to manhood.

Calmneſs and *Deliberation* to age.

Dignity and *Reſerve*, without contemptuouſneſs or petulance, are proper to men of high ſtation.

Deference, without ſervility, is proper to men of inferior rank.

Modeſty is a proper reſerve on every ſubject of ſelf-eſtimation.

It forbids oſtentation of what we

poſſeſs, of what we have done, or of what we have ſuffered.

Oeconomy is the proper adjuſtment of a perſon's expence to his fortune.

Where fortune conſtitutes rank and power, œconomy is required to preſerve independence and freedom.

Senſuality and gaming are adverſe to good œconomy.

Deciſion is a ſeaſonable and reſolute choice of what a perſon ought to do.

In ſome caſes, heſitation is equal to a total purpoſe of inaction. Every opportunity is loſt, and every meaſure comes too late.

Caution conſiſts in a proper attention to all the difficulties that may occur in what a perſon undertakes.

The great objects of caution are, not to engage in what is above our ſtrength, nor to commit ourſelves to perſons that miſlead or deceive.

SECT.

SECT. IV.

Duties referred to Temperance.

DUties referred to temperance may be comprehended under the heads of *Sobriety* and *Application*.

Sobriety is the moderate uſe of food, and of other animal gratifications.

The general tendency of ſenſuality, is to beget habits of ſloth, and neglect of affairs.

The immoderate uſe of intoxicating drugs, or liquors, have theſe effects in a high degree. It reconciles men, otherwiſe of an active diſpoſition, to inoccupation and idleneſs.

The debauch of the ſexes being ſometimes joined with paſſion, may occaſion a continued or habitual neglect of affairs.

Application is the preference of buſineſs to amuſement.

Buſineſs is ſuppoſed to terminate in ſome ſerious purpoſe; amuſement in mere paſtime.

Diſſipation is a weakneſs of the mind, diſabling it from chuſing or proſecuting the occupations that would engage it moſt effectually, and with moſt advantage.

SECT. V.

Duties referred to Fortitude.

THE duties referred to fortitude are, *Patience*, *Intrepidity*, and *Conſtancy*.

Patience is the calm and deliberate ſuffering of any trouble or pain that occurs in human life.

Peeviſhneſs, the reverſe of patience, tends to realize imaginary evils, and to increaſe what is real.

Intrepidity is firmneſs, and preſence

ſence of mind, in the midſt of dangers.

Intrepidity is frequently the greateſt ſecurity in danger.

Conſtancy is perſeverance in all purſuits or engagements properly choſen.

The wavering are ſeldom capable of executing any purpoſe.

SECT. VI.

Uſes of Caſuiſtry.

THE rules of caſuiſtry cannot ſuperſede the judgement and good diſpoſition of a virtuous mind.

Attempts to give caſuiſtry this conſequence, have proceeded from ſuperſtition, and tended to confirm the moſt ſlaviſh ſuperſtition, by multiplying external obſervances, that miſlead the attention, from qualities

qualities of the heart, to matters of form.

Good diſpoſition is neceſſary to the happineſs of mankind; and dutiful conduct naturally reſults from good diſpoſition.

It is however of moment to anticipate, in general rules, the external effects of virtue.

Theſe rules render the deſcription of virtue itſelf more particular, and more complete. Being ſupported by the ſanctions of religion, and of public repute, the rules of duty may procure to ſociety the benefit of uſeful actions, even where they do not procure to the perſon acting the happineſs of a virtuous heart.

SECT.

SECT. VII.

Of Merit and Demerit.

ACtions are ſaid to have merit or demerit, according to the nature and degree of the moral quality they expreſs.

Actions that expreſs good-will to mankind in the higheſt degree, have the higheſt merit.

Hence beneficent actions performed in the face of dangers, difficulties, and perſonal ſufferings, are allowed to have the higheſt merit.

Actions that expreſs malice, and give examples of miſchiefs done without inducement or provocation, are of the higheſt demerit.

We expreſs our ſenſe of demerit in the different degrees of crimes, offences, and faults.

A crime is an injury done from malice, jealouſy, revenge, avarice, or ſome other paſſion that ſets mankind at variance.

An offence is a wrong done in the gratification of ſome paſſion in its own nature conſiſtent with amity.

A fault is a wrong done from inattention or ignorance.

Faults of inattention are culpable in proportion to the moment and importance of the ſubject.

Faults of ignorance are more or leſs culpable, as the defect of knowledge argues neglect and inattention.

It is a general maxim, That ignorance of the fact may be admitted as a plea of innocence; but not ignorance of the law.

Ignorance of natural law, or of duty, would be one of the greateſt defects of a rational nature.

INSTI-

INSTITUTES
OF
MORAL PHILOSOPHY.

PART VII.

Of Politics.

CHAP. I.

Introduction.

IT appears from the hiſtory of mankind, that men have always acted in troops and companies; that they have apprehended a good of the community, as well as of the individual; that while they practiſe arts, each for his own preſervation, they inſtitute political forms, and

and unite their forces, for common ſafety.

It may be proved, that moſt of the opinions, habits, and purſuits, of men, reſult from the ſtate of their ſociety; that men are happy in proportion as they love mankind; that their rights and their duties are relative to each other; and, therefore, that their moſt important concerns are to be found in their mutual relations, and in the ſtate of their communities.

A nation is any independent company or ſociety of men acting under a common direction.

The united force of numbers, and the direction under which they act, is termed *the ſtate*.

Nations are happy who are compoſed of happy men.

Nations are wretched who are compoſed of unhappy men.

Nations may be conſidered in reſpect

ſpect to their reſources, or in reſpect to their inſtitutions.

National reſources are the objects of public œconomy.

National inſtitutions are the objects of political law.

X CHAP.

CHAP. II.

Of public OEconomy.

SECT. I.

Of National Reſources in general.

NAtional reſources include every article that tends to conſtitute the ſtrength of a nation, or that may be employed for its preſervation.

Such articles may be referred to three principal heads; People, Wealth, and Revenue.

SECT.

SECT. II.

Of Populouſneſs.

THE value of numbers is proportioned to their union and character.

Numbers without union or virtue, do not conſtitute ſtrength.

A people, in conſequence of their numbers, ſometimes become diſunited and corrupted.

If they inhabit a large and extenſive territory, they are diſunited, and loſe ſight of their community. A few ingroſs the management of public affairs, and with-hold from the many every ſubject of public zeal, or political occupation. The greater part are thrown into a ſtate of languor and obſcurity, and ſuffer themſelves to be governed at diſcretion.

Human nature, in ſtates of a

moderate extent, has proſpered and excelled; but in ſtates overgrown, has generally declined and degenerated.

If great numbers be crouded into narrow diſtricts, or cities, they are expoſed to corruption; become profligate, licentious, ſeditious, and incapable of public affections.

The union of a people depends on the arrangements or diſpoſitions by which their forces may be combined for the ſervice of the ſtate.

The union of the people in republics, ariſes more from their affection to the community, than from the power eſtabliſhed to enforce their ſervices.

In monarchies, it ariſes from the love of perſonal dignities, to which individuals aſpire in ſerving the ſtate.

In deſpotiſm, it ariſes entirely from the power that is prepared to enforce the ſervices of the people.

The

The character of a people, conſidered as a national reſource, is to be eſtimated from their fitneſs to reap, and to preſerve, or to improve, the advantages of their conſtitution, and to ſupport their country in purſuit of its objects.

Different characters are required under different forms of government.

Under republics of every ſort, high degrees of probity are required; under monarchy, leſs; and under deſpotiſm, leaſt of all.

The principal objects in every ſtate, next to the political conſtitution, are war or commerce.

In warlike nations, men are to be eſtimated by their hardineſs, courage, and diſcipline.

In commercial nations, men are to be eſtimated by their induſtry, and by their ſkill in profitable arts.

Commercial nations may value acceſſions of art, as the ſureſt means

of gaining acceſſions of people; for in circumſtances otherwiſe favourable, population keeps pace with the arts, and means of ſubſiſtence.

Inſtitutions that, by ſecuring property, and by preventing oppreſſion, encourage the ſettlement of families, and facilitate the rearing of children, are the moſt favourable to population.

SECT. III.

Of Riches or Wealth.

MEN are ſuppoſed rich in poſſeſſing the means of defence, ſubſiſtence, accommodation, and ornament.

Wealth is a national reſource, becauſe it may be employed in maintaining uſeful or ſerviceable men, and in ſupplying the exigencies of ſtate.

The conſtituents of wealth may be

be conſidered in reſpect to their value, and in reſpect to their price.

As the uſe of wealth is to maintain and accommodate men, articles or commodities are valuable in proportion to the numbers they maintain and accommodate.

The means of ſubſiſtence are neceſſary.

The means of accommodation which contribute to the preſervation of men, and to the increaſe of their vigour and health, are next in value to the neceſſaries of life.

But articles of mere ornament are of no value at all.

The luxury of a people is to be eſtimated from their conſumption of mere ornaments.

The price of a commodity is meaſured by the quantity of any other commodity that is commonly, or occaſionally, given in exchange for it.

Price is moſt commonly expreſſed, and paid, in money.

Hence

Hence money is conſidered as the equivalent of all commodities, and the conſtituent of wealth.

But commodities are no leſs the equivalents of money; and abundance in any one ſpecies, whether of money or other commodity, will buy a participation in the whole.

The price of commodities fluctuate; and keep pace with the quantity of money in circulation, with the ſcarcity of the commodity, with the demand, and with the riches of thoſe who conſume it.

Articles of ornament are frequently of the greateſt price.

Commodities that are the work of labour, time, and ſkill, cannot continue to be ſold for leſs than will maintain the workman, and pay the whole of his advance.

As the value of commodities is meaſured by the numbers they may maintain, ſo the coſt of a commodity

dity may be eſtimated by the numbers and time employed in producing it.

The wealth of any country is proportioned to its natural advantages, to the induſtry and ſkill of its inhabitants, and to the profit of its trade.

Natural advantages are, good climate, fertile ſoil, and uſeful materials.

Induſtry and ſkill comprehend all uſeful arts, agriculture, and manufacture, in all their branches.

The profit of trade is the profit either of the conſumer, of the producer, of the merchant, or of the ſtate.

The profit of the conſumer conſiſts in being ſupplied with neceſſary or uſeful commodities;

The profit of the producer, in the vent of ſuperfluities;

The profit of the merchant, in the balance remaining, after he has paid coſt and expences;

The

The profit of the ſtate, in the increaſe of wealth, or the accumulation of commodities in the poſſeſſion of its members.

Commerce, by accommodating all parties with what they want in exchange for what they can ſpare, enables and encourages them to increaſe their produce.

Commerce reſpecting the ſtate, is either internal or foreign.

Internal commerce is, the exchange of commodities between ſubjects of the ſame ſtate.

Foreign commerce is the exchange of commodities between ſubjects of different ſtates.

In ſtates of conſiderable extent, the internal commerce is of more conſequence than the foreign commerce.

The importance of foreign commerce, diminiſhes as the ſtate extends.

Commerce between nations, may be

be conſidered in reſpect to the balance of price, or the balance of value.

The balance of price commonly ſtands for the difference ſuppoſed to remain due by one nation to another, after appretiating the whole goods that have paſſed in exchange between them.

The balance of value is the difference of real value in the whole goods that have paſſed in exchange.

The profits of commerce are determined by the balance of value, not by the balance of price.

The nation that has the balance of price againſt it, may have the balance of value in its favour. It may have received the means of improving its land, and of extending its trade, &c.

The nation that owes the balance of price, will be obliged to part with its money, or ſome other commodity,

modity, in order to pay that balance.

A trade in which a balance of price is incurred, cannot be continued, unleſs there be a continual ſupply of money, or other commodity, by which the balance may be paid.

The produce of land is a continual, and may be made an increaſing ſupply.

The produce of mines, or the importation of money, may be continual.

Nations who carry on any part of their internal trade by credit and bills, need proportionally leſs ſupplies of money.

The uſe of bills in circulation tends to extend credit.

Credit is uſeful or pernicious, according to the uſe that is made of it.

It is uſeful to an induſtrious and thriving people.

It

It is pernicious to the ſpendthrift and the prodigal.

The expence of remitting money from one country to another, affects the exchange of their coins.

That nation which has occaſion to remit moſt money, muſt pay this expence, and is ſaid to have the exchange againſt it.

But as money may be remitted to make profit, it does not follow from the ſtate of exchange, that a nation is either gainer or loſer by trade.

The profits of trade are either mutual or partial.

They are mutual ſo far as commerce accommodates all parties with what they want, in exchange for what they can ſpare; and enables each to improve his peculiar materials, and to purſue his peculiar art; and procures to the merchant and carrier an adequate reward for their trouble.

In commerce mutually beneficial, that party gains moſt who receives the more uſeful commodity; and who receives the produce of much land, time, and labour, for the produce of leſs; and who, in conducting his trade, is employed in the more healthful and leaſt corrupting occupations.

The profit of trade is partial, when things of value are exchanged for things of no value.

The following are laws of commerce founded in the preceding conſiderations.

1. That where profits are mutual, commerce ſhould not be reſtrained by either party.

2. That a trade which terminates in giving the means of accommodation and ſubſiſtence in exchange for mere ornaments, may be reſtrained by the loſing party.

3. That monopolies are pernicious to commerce.

4. That

4. That the ſtate of a nation's wealth is not to be eſtimated from the ſtate of its coffers, granaries, or warehouſes, at any particular time; but from the fertility of its lands, from the numbers, frugality, induſtry, and ſkill, of its people.

SECT. IV.

Of Revenue.

THat part of national wealth which is allotted for purpoſes of ſtate, is the public revenue.

The public revenue may ariſe from demeſne and unappropriated ſubjects, or from taxes.

The firſt is the earlieſt ſpecies of revenue in rude nations; and is ſuited to their indolence, and ignorance of lucrative arts.

The ſecond is better ſuited to the induſtry and ſkill of commercial nations.

It is not the intereſt of commercial nations, that any ſubject ſhould remain unappropriated. While a ſubject remains unappropriated, it is commonly neglected.

Revenue ariſing from taxation, may increaſe together with the numbers, wealth, and frugality, of the people.

In judging of the abſolute or comparative expediency of different taxes, the following axioms may be admitted.

1. That the exigencies of the ſtate muſt be provided for at any hazard or expence to the ſubject.

2. That in levying taxes, no ſubject be unneceſſarily burdened.

3. That the ſecurity of the ſubject, or that of his property, be not impaired.

4. That no uſeful branch of trade be unneceſſarily burdened.

5. That taxes leaſt felt as grievances be preferred.

6. That

6. That the leaſt burdenſome method of collecting taxes be choſen.

N. B. The method of farm appears, from experience, to be more burdenſome than that of revenue-office.

Taxes may be referred to four general heads:

Capitation, Aſſeſſment, Cuſtoms, and Exciſe.

Capitation is a tax on the perſon, and falling equally on the poor and the rich.

Capitation may be oppreſſive to the poor, without levying from the rich what they are able to furniſh to the ſtate.

Capitation is a ſymptom of deſpotic and oppreſſive government.

Aſſeſſment is a tax on riches, and is proportioned to the eſtate aſſeſſed.

Aſſeſſments may fall equitably, when property is unequally diſtributed.

Land-eſtate being moſt eaſily aſcertained and valued, is the propereſt ſubject of aſſeſſment.

The ſtock of the merchant is fluctuating; and attempts to aſcertain it might give occaſion to frauds, or improperly diſcloſe the ſecrets of trade.

Cuſtoms are taxes impoſed on goods in commerce, and advanced by the merchant.

Cuſtoms impoſed on the neceſſaries of life, are a tax on the poor, and have the effects of capitation.

Cuſtoms impoſed on matters of ornament, or coſtly accommodation, are a tax on the prodigal, or the rich.

Such taxes are moſt agreeable to humanity and juſtice.

Cuſtoms are an incumbrance on trade, and may amount to a prohibition of particular articles.

Cuſtoms, though advanced by the merchant, fall on the conſumer; but

but being involved in the price of the commodity, are not commonly felt as a tax.

As the merchant muſt not only be reimburſed, but have profit on all his advance, it follows, that the earlier in trade cuſtoms are paid for any commodity, the heavier they muſt fall on the conſumer.

Exciſe is a tax on commodities in uſe, and paid by the conſumer.

Exciſe may be rendered a tax, either on the rich or the poor ſeparately, or on both proportionally.

Exciſe is leſs burdenſome to the conſumer, than an equivalent raiſed in cuſtoms; but is more likely to be felt as a grievance, and to create more animoſity in the ſubject againſt the ſtate.

CHAP.

CHAP. III.

Of Political Law *.

SECT. I.

Of this Law in general.

WHere nations have occurred in the preceding parts of this ſyſtem, they have been conſidered only in reſpect to the hiſtory of their eſtabliſhments, or in reſpect to the foundations of civil rights, and of civil obligations: In this place they are to be conſidered in reſpect to what is expedient in political eſtabliſhments, or civil conventions.

Political law in any particular community, is the ſtatute, cuſtom,

* See Inſtructions of the Empreſs of Ruſſia. L'Eſprit de Loix, tom. I.

or

or other convention, on which the inſtitutions of that community are founded.

Political law of nature, is that branch of moral law which expreſſes what is beneficial in the civil inſtitutions of men.

The following are fundamental laws of nature relating to political inſtitutions.

1. That political inſtitutions are beneficial, in proportion as they contribute to the ſafety and happineſs of the people.

2. That political inſtitutions procure the ſafety of the people, in proportion as they are adapted to the circumſtances and character of the people.

3. That the diſtribution of office is beneficial, in proportion as it is adapted to the conſtitution.

4. That political eſtabliſhments are the moſt important articles in the external condition of men.

SECT.

SECT. II.

Of the Safety of the People.

BY *the people* is to be underſtood, not any ſeparate claſs, but all the members of the community, the magiſtrate as well as the ſubject.

The ſafety of the people conſiſts in the ſecure enjoyment of their rights.

That the rights of men may be ſecure, it is neceſſary, either that there ſhould be no one to invade, or that there ſhould be a ſufficient power to defend.

The firſt is not to be expected in human affairs; the ſecond is the principal object of political eſtabliſhments.

It has been the object, or the fortune, of ſome communities, to poſſeſs members who might be intruſted with any powers.

It

It has been the object of other communities, to grant ſuch powers only as might be intruſted with any men.

Theſe ſeveral caſes, real or ſuppoſed, may be intitled, The government of *Innocence*, of *Virtue*, and of *Law*.

Under the goverment of innocence, or of virtue, matters of form are eaſily adjuſted.

Under the government of law, it is neceſſary, that the rights and obligations of men ſhould be clearly expreſſed.

This is the object of conventional law.

In every convention is ſuppoſed the conſent of parties given in perſon, or by others properly authoriſed.

The ſovereign is authoriſed to enact laws.

Laws relate to the conſtitution, to civil rights, or to crimes.

The

The moſt perfect laws relating to the conſtitution, are ſuch as confer on the magiſtrate power to reſtrain crimes, and to defend the community; but under limitations ſufficient to prevent the abuſe of this power.

The moſt perfect laws relating to civil rights, are ſuch as effectually ſecure every perſon in his ſtate.

It is the maxim of civil law, That every perſon ſhould remain in his poſſeſſion, until a better title be undoubtedly proved.

Laws relating to crimes, preſcribe the form of trials, and point out the overt acts for which certain puniſhments are appointed.

The following are maxims of natural law relating to proſecutions.

1. That every perſon is to be deemed innocent until he is proved to be guilty.

2. That no one ſhall be obliged to give

give evidence that may affect himſelf.

3. That no one ſhall be tortured into confeſſions or diſcoveries of any ſort.

4. That no one ſhall be puniſhed, unleſs he ſhall have committed ſome action in itſelf pernicious, or ſpecially declared by the law to be criminal.

5. That it is better the guilty eſcape, than that the innocent ſuffer.

6. That the object of puniſhment be to correct the guilty, and to deter others.

7. That the puniſhment be not ſuch as would ſhock humanity, or diſorder ſociety more than the crime.

To ſecure legal rights, it is neceſſary that the laws ſhould be ſtrictly interpreted and applied.

Under the government of law, diſcretionary powers are not ſafely intruſted, except to judges named

by the parties; or to juries purged by the challenge of parties, and intereſted equally to protect the innocent and to puniſh the guilty.

In the ſecurity of rights conſiſts civil and political liberty.

Liberty is oppoſed to injuſtice, not to reſtraint; for liberty cannot ſubſiſt without the ſuppoſition of every juſt reſtraint.

Natural liberty is not impaired, as ſometimes ſuppoſed, by political inſtitutions; but owes its exiſtence to political inſtitutions, and is impaired only by uſurpations and wrongs.

The laws of different communities beſtow unequal privileges on their members; but liberty conſiſts in the ſecure poſſeſſion of what the law beſtows.

Thoſe are the moſt ſalutary laws which diſtribute the benefits and the burdens of civil ſociety in the moſt equitable manner to all its members.

SECT.

SECT. III.

Of the Happineſs of a People.

THE happineſs of a people conſiſts in the love of their country, and in that diſtribution of rank and ſtation which is beſt ſuited to their merits and capacities.

Men who have leaſt private intereſt, are beſt diſpoſed to love their country.

Men who have the feweſt adventitious diſtinctions of birth or fortune, are moſt likely to be claſſed according to their merits, to be employed ſuitably to their abilities, and to find the ſtations in which they are moſt likely to cultivate their talents, and their virtues.

That a community may be loved in the higheſt degree, its members ſhould be relieved of perſonal anxieties,

xieties, and occupied in what relates to the public.

They ſhould be made to conſider the ſtate as the equal parent of all, diſtributing equal benefits, and requiring equal ſervices.

Where-ever the ſtate confines political conſideration to a particular order, who ſacrifice the rights of others to their own intereſt or fancy, it cannot be loved.

The reaſon and the heart of man are beſt cultivated in arduous ſituations, and in the exerciſe of public duties.

SECT. IV.

Of the Fitneſs of the Inſtitution to the People.

MEN of ſpeculation have in vain endeavoured to fix a model of government equally adapted to all mankind.

One

One people is unfit to govern, or to be governed, in the ſame manner with another.

Nations differ in reſpect to character, and to circumſtances.

The character of a people refers to their degree of virtue, or of other principle, on which the ſtate may rely for the diſcharge of ſocial and political duties.

The circumſtances of a people are determined chiefly by their caſual ſubordination, and by the extent of their country.

Caſual ſubordination is founded in diſtinctions, original or adventitious.

Original diſtinctions are, the differences of capacity, diſpoſition, and force.

Adventitious diſtinctions ariſe from fortune and birth.

Queſtions relating to the propriety of any political inſtitution, can be ſolved only hypothetically.

Such queſtions may be put on four different ſuppoſitions.

First Supposition.

The ſuppoſition of a people perfectly virtuous, diſtinguiſhed from each other only by their original differences, and forming ſtates of ſmall extent.

Such a people are fitted to govern themſelves.

They may ſtipulate to be governed by the majority of their own number, or occaſionally by ſingle men; but to oblige ſuch men by force to reſign the ſenſe of their own minds, and to follow that of another, were, by the ſuppoſition, to ſubſtitute vice for virtue.

Being perfectly virtuous, every one will be willing to bear his ſhare of the public burdens, and will receive, in his turn, that confidence and

and truſt for which he is by his capacity and experience qualified.

They have no adventitious diſtinctions to mar the effect of their perſonal qualities.

Being of ſmall extent, the whole may be occaſionally or periodically aſſembled.

They need no precaution againſt the commiſſion of crimes, or the abuſes of power.

The ſole object of government is, to aſſemble, and to direct their force for national purpoſes.

This, however, is a mere ſuppoſition; for no entire nation was ever known to be perfectly virtuous.

Second Supposition.

A people in whom the virtuous and the vicious are mixed; who admit adventitious diſtinctions in different

different degrees, and form ſtates of various extent.

This is not mere ſuppoſition, it is fact, and the moſt general deſcription of mankind.

If there be no great ſeparation or diſtinction of rank and condition;

If virtue greatly prevail over vice;

If the ſtate be of ſmall extent;

Such a people are fit for democracy.

Their numbers admit of being aſſembled in collective bodies.

Their virtues and their inſtitutions may prevent crimes, and abuſes of power.

They may reap the advantages of democracy, in a manner that will more than compenſate its inconveniencies.

If ſuch a people be ſeparated into different orders or claſſes, they

are

are fitted to ariſtocracy, mixed republic, or mixed monarchy.

If in two claſſes, one is diſtinguiſhed from the other by a conſiderable ſuperiority, they are fit for ariſtocracy.

Commercial nations of a ſmall extent are, in the reſult of diſtinctions that ariſe from the practice of arts, and the unequal diſtribution of property, beſt fitted to ariſtocratical government, or to mixed republic.

The inferior claſs, if not greatly debaſed or corrupted, may have a ſhare in the government, either by a negative on the determinations of the ariſtocracy, or by being intruſted, not with an active part in the government, but only with the choice of thoſe who are to act for them.

The ſame ſuppoſition applied to ſtates of a greater extent, and to a people among whom a greater variety

riety of rank is eſtabliſhed, will juſtify the preference of mixed monarchy.

It were happy for mankind, if, together with changes of circumſtances, they could always make ſuitable changes in government.

Where changes of circumſtance are gradual, correſponding changes of government take place; but ſudden innovations of any ſort, precipitate men into ſituations in which they are not qualified to act.

THIRD SUPPOSITION.

A people on whoſe vanity, and ſenſe of perſonal importance, rather than virtue, the ſtate muſt rely for the diſcharge of the ſocial and political duties; a people amongſt whom a continual adventitious ſubordination takes place, without any example, or any deſire, of equality.

Such

Such a people are not fit to govern themſelves.

Their ſubordination muſt terminate in a prince or monarch.

They require monarchy as a bond of union, and as a ſource of honour.

While every one attends to what concerns himſelf, the monarch, for the preſervation of his own perſon and dignities, muſt attend to the public ſafety, and public order.

The ſubordinate ranks will court his favour, and conſult their own dignity, by actions, either ſplendid in themſelves, or uſeful to the ſtate, whilſt they are ſerviceable to the king.

The members of the ſtate are drawn together, and moved in a body, not by their love to the community, or to mankind, but by their veneration for their common ſuperior, and by their expectations from their

their common ſource of preferment and honour.

The maxims of honour are not ſuſceptible of ſudden changes; and the dignities of family, though for the moſt part conferred by the prince, are hereditary, and therefore independent.

Both theſe circumſtances oblige the prince to govern according to fixed and determinate laws.

Fourth Supposition.

A people perfectly vicious, without ſenſe of honour, or hereditary diſtinctions.

Such a people muſt be reſtrained by force.

Every conſtitution, even that which confides moſt in the virtue of the ſubject, muſt employ force to repreſs crimes.

If the whole people be inclined to commit crimes, and be reſtrained

ed only by fear, the proſpect of prompt and terrifying puniſhments muſt be continually placed in their view.

This ſuppoſition may be employed as an apology for deſpotiſm.

Where every perſon is diſpoſed to commit crimes, the fewer that have power, ſo much the better.

When all power is committed to one perſon, even ſuppoſing himſelf to be a criminal, it is his intereſt, for the moſt part, to reſtrain the crimes of others.

His ſeverities, or cruelties, by the ſuppoſition, can no where afflict the innocent.

His dominions, though, like a priſon, committed to the keeping of vile and mercileſs men, is nevertheleſs the only fit place to receive thoſe who cannot be otherwiſe reſtrained from injuſtice.

But this caſe, like that which was firſt ſtated, of a people perfect-

ly virtuous, is a mere ſuppoſition, and never was realiſed in the character of any people.

Men are generally as far from the extreme of perfect vice, as they are from that of perfect virtue.

They who contend, that deſpotical government is in fact the beſt for mankind, proceed upon four ſuppoſitions, all equally violent and falſe.

1. That all men would commit crimes if they durſt.

2. That crimes cannot be reſtrained without diſcretionary powers.

3. That a perſon to whom diſcretionary powers are committed, will employ them to repreſs the crimes of others, but not to commit crimes of his own.

4. That the ſole object of government is, to controul the actions, never to cultivate the nature or form the characters of men.

Theſe

Theſe ſuppoſitions are contrary to reaſon and to experience.

The fact is, that the manners of men are various; and that the ſame penal laws, and forms of juſtice, by which a people may be ſucceſsfully governed in a virtuous age, will not always be ſufficient to reſtrain them in ages corrupted.

When the criminal paſſions increaſe in violence and boldneſs, it may be neceſſary to increaſe the meaſure of puniſhments.

When crimes multiply, and criminals are enabled to employ the forms of law as the ſubterfuges of iniquity, it may be neceſſary to alter ſuch defective forms: but it never can be neceſſary to deprive the innocent of all the defences of reaſon and juſtice; for the ſame reaſon and juſtice which protect the innocent, may condemn the guilty.

In times of occaſional tumult, popular frenzy, or rebellion, it may

be neceſſary to treat thoſe who commit ſuch crimes, not as ſubjects amenable to the laws, but as enemies, who, by invading the public peace, have deprived every citizen of his ſafety, and who therefore cannot have the benefit of laws until the public has recovered its ſecurity.

Such domeſtic diſorders, like foreign wars, render diſcretionary power occaſionally neceſſary: but this neceſſity is only temporary.

For the moſt part, even in corrupted ſtates, it is as much the intereſt of the ſubject as of the magiſtrate, to keep the peace, and to repreſs crimes.

Continual deſpotiſm is never a neceſſary nor an uſeful expedient; it is an uſurpation, and a national misfortune.

It tends to produce that extremity of vice to which it is ſuppoſed to be adapted as a remedy.

The

The object of deſpotical government, is not to ſecure the ſubject in the poſſeſſion of his rights, but to make him a property; not to ſuppreſs vice, but to ſuppreſs the higheſt and nobleſt virtues of the heart, public ſpirit, independence, and courage.

SECT. V.

Of the Diſtribution of Office fitted to the Conſtitution.

IN free governments of every denomination, where law is neceſſary, the law muſt be enacted, interpreted, and executed. Hence the offices or functions of ſtate are, legiſlation, juriſdiction, and execution.

Legiſlation, under every conſtitution of government, is the immediate act of the ſovereign power,

and cannot be delegated without transferring the ſovereignty.

This rule does not exclude the concurrence of councils, nor the obſervance of forms ſuited to the conſtitution.

Under democracies, the legiſlation is exerciſed by the collective body; but it is not neceſſary that the collective body ſhould deliberate, as well as decide.

The collective body may name ſenates, or ſelect councils, to prepare queſtions of legiſlation.

They may vary the form of collecting the votes, or of promulgating the law.

They may fix, at diſcretion, what numbers are required to conſtitute a legal aſſembly, and what proportion of thoſe preſent will decide any queſtion in the affirmative.

Under ariſtocracies, the collective body of thoſe who govern, whether by

by elective or hereditary title, muſt exerciſe the legiſlature.

They may act, notwithſtanding, under the ſame forms and limitations that have been mentioned as compatible with the ſovereignty of the whole people.

Under monarchy, the legiſlature is exerciſed by the king.

The king ſtands in need of councils; and his legiſlative power may be qualified by the forms of regiſtration, or promulgation, required to give the force of law to his edicts.

In mixed government of any ſort, the legiſlature muſt be exerciſed by the concurrence of all the collateral powers.

If a law could be enacted without the concurrence of any ſingle power, that power might be ſuppreſſed by the others.

If the ſuppoſed collateral powers were to aſſemble, and decide queſtions

ſtions of legiſlation by the majority, any way defined, the government would ceaſe to be mixed.

The ſovereignty of collateral powers is compatible with a variety of forms relating to the propoſing and the enacting of laws.

Sovereigns of any denomination, who have ſuffered courts of juſtice to follow cuſtom as a rule of deciſion, are to be underſtood as having eſtabliſhed that cuſtom into law.

Juriſdiction, or the office of judge, is, to interpret the law, and to apply it in particular caſes.

This office, under every conſtitution, ſhould be disjoined from that of legiſlation.

The ſovereign, being accuſtomed to will, or to command, cannot ſubmit merely to interpret, or to follow a rule.

Particular caſes are modified by circumſtances that create prejudice, or excite paſſion.

The

The ſovereign, having no ſuperior, may follow prejudice or paſſion at diſcretion.

The ſovereign having enacted the law, would, under the influence of ſpecial motives, make free to diſpenſe with it.

Popular or numerous aſſemblies would be ſwayed by faction.

Princes would be ſwayed by their paſſions, and by ſolicitation.

Two queſtions may be put relating to judicature:

1. Who ought to judge?

2. Of what numbers are courts of juſtice beſt compoſed?

1. Where-ever laws are greatly multiplied, the knowledge of law becomes a profeſſion.

No judgement can be ſafely given without the counſel of thoſe who are knowing in the law.

The office for which counſel is neceſſary, is that of pointing out the

the law, and the whole law, in any particular caſe.

Perſons who are not lawyers by profeſſion, may interpret and apply a law which is pointed out to them; in the manner of the judges at Rome, and of the juries in Great Britain.

Beſide the counſel employed by parties, the public may employ counſel for juſtice and law. This is the nature of official judges in Great Britain.

Juriſdiction committed entirely to official judges, is attended with the following inconveniencies.

The official judge being a continual magiſtrate, may entertain the prejudices of the magiſtrate againſt the ſubject.

The peculiar prejudices and partialities of the official judge, if he has any, may be known.

They who enjoy his favour, are tempted to treſpaſs in hopes of impunity,

punity, or to commence vexatious ſuits in hopes of ſucceſs.

They who apprehend his diſpleaſure, do not feel themſelves ſecure even in poſſeſſion of innocence.

Theſe inconveniencies are removed, in a great meaſure, by the eſtabliſhment of judicatures in the Roman form, or in that of juries.

The juryman is equally intereſted to protect the innocent, and to condemn the guilty.

Juries may therefore be intruſted with ſome meaſures of diſcretionary power, to mitigate the rigours of law, or to ſupply its defects.

Where a people are divided into a number of ſeparate orders and claſſes, as thoſe of Patrician, Equeſtrian, and Plebeian, Lords and Commons, the rights of one order are not ſafely intruſted to the judgement of another; and it would be expedient, that every party were judged by his peers.

2. Under

2. Under popular or republican governments of any ſort, courts of juſtice are beſt compoſed of few members.

Courts compoſed of many members carry popular faction and party into the judgement-ſeat. The individual hopes to ſcreen himſelf even in judging falſely, under the authority and credit of the whole body.

No one is accountable; no one is conſpicuous; all are tempted to humour their party, and to judge at diſcretion.

Under monarchy, courts of juſtice are beſt compoſed of many.

Here the influence of the crown is more to be dreaded, than the faction of the people.

This influence can leſs overawe or corrupt numerous bodies, than ſingle men, or a few.

Numerous bodies, in their deliberations, admit of the zeal and ardour

dour that animate popular aſſemblies; and even whilſt they do not judge more impartially than ſingle men would do, they judge with more independence.

The ſpirit of faction, that in republic is the greateſt corruption, in monarchy tends to prevent a greater, ſervility to thoſe in power.

The office of the executive is, to apply the force of the ſtate for national purpoſes:

1. To give effect to the laws,
2. To defend the community againſt foreign enemies.

Occaſions on which the executive muſt be exerted, are either continual or caſual; and in caſe of danger from abroad, require ſecrecy and diſpatch.

The ſovereign in republican governments, conſiſting of the whole people, or of numerous bodies, cannot exerciſe the executive.

Such bodies cannot be continually aſſembled, nor ready to aſſemble at all times.

The reſolutions of the executive require more ſecrecy and diſpatch than can be had in any numerous or popular aſſemblies.

Affairs that come in courſe, or that admit of delay, may be committed to ſenates, or to ſelect councils. Such are the management of public revenue, negotiations, and treaties.

Affairs that may come fortuitouſly, and by ſurpriſe, that will not admit of delay, muſt be committed to ſingle men; as to the magiſtrate, or officer who has the keeping of the peace, and the leading of armies.

Under monarchy, whether pure or mixed, the king is capable of every branch of the executive.

But he ought to delegate whatever

ever tends to render his power terrible or odious;

To reſerve what renders it an object of reſpect or affection.

The abuſes of the executive power are variouſly reſtrained under different conſtitutions.

In republics, they are reſtrained by the ſhort duration of office in the perſon of any individual, by the vigilance and emulation of his competitors, if not by his own virtue and moderation.

Thoſe were the happieſt republics, who educated virtuous citizens, to whom any powers might be ſafely intruſted.

Some of the moſt important powers, both in Sparta and at Rome, were diſcretionary.

In monarchy, the abuſes of the executive are reſtrained by the forms of law, and by the privileges of ſubordinate ranks.

In all conſtitutions, they may be

reſtrained by having magiſtrates and miniſters accountable,

By the integrity of thoſe who conſtitute the force committed to the direction of the executive.

When the armed force is part of the people, it is their intereſt, as well as their duty, to refrain from abuſe.

SECT. VI.

The Importance of Political Inſtitutions.

BY political inſtitutions, rights are preſerved or invaded, men are placed in the relation of equals or of maſter and ſlave, their crimes are authoriſed or repreſſed, and their manners improved or corrupted.

Political inſtitutions tend to augment the good or the evil with which they are fraught.

Human

Human affairs, in ſome inſtances, tend to improvement; in others, to corruption.

The inſtitutions of men, in one caſe, promote their improvement; in the other, haſten their corruption.

Inſtitutions that preſerve equality, that engage the minds of citizens in public duties, that teach them to eſtimate rank by the meaſure of perſonal qualities, tend to preſerve and to cultivate virtue.

On the contrary, inſtitutions by which men are ſtripped of their rights, or by which they are made to hold their poſſeſſions at diſcretion, under which they are ſuppoſed governable only by force, and by the fear of puniſhment, tend to beget tyranny and inſolence in the ſovereign, ſervility and vileneſs in the ſubject; to *cover every viſage with paleneſs* *, and to fill

* Vid. L'Eſprit de Loix, liv. 6. c. 5.

every

every heart with jealouſy or dejection.

The greateſt and moſt extenſive benefit which ſingle men can beſtow, is the eſtabliſhment or preſervation of wiſe inſtitutions.

The greateſt injury that wicked men can commit, is the overthrow or corruption of ſuch inſtitutions.

THE END.

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